

DIRECTORATE-GENERAL FOR EXTERNAL POLICIES
POLICY DEPARTMENT



**ENHANCING
COOPERATION
BETWEEN THE
EUROPEAN
PARLIAMENT AND EU
NATIONAL
PARLIAMENTS ON EU
HUMAN RIGHTS POLICY**

DROI





**DIRECTORATE-GENERAL FOR EXTERNAL POLICIES OF
THE UNION**

DIRECTORATE B

POLICY DEPARTMENT

STUDY

ENHANCING COOPERATION BETWEEN THE EUROPEAN PARLIAMENT AND EU NATIONAL PARLIAMENTS ON EU HUMAN RIGHTS POLICY

Abstract

The Lisbon Treaty has rung in a new era of democratic and human rights governance. In an attempt to redress concerns about the EU's alleged democratic deficit and inability to speak with one voice on cross-cutting issues of human rights, both the empowered European Parliament (EP) and national parliaments (NPs) are meant to 'contribute actively to the good functioning of the Union' through inter-parliamentary cooperation (IPC). At the same time, the EU's action is also poised to systematically 'put human rights at the heart of all its policies'. Given the role of parliaments as 'guardians and promoters of human rights' at a time when their ability to influence the EU legislative process has significantly been enhanced, the question arises whether the EU's 'human rights turn' may act as a catalyst for IPC, and whether this collaboration may, in turn, strengthen the effectiveness and legitimacy of EU human rights policies. To that end, this study maps the increasingly complex network of formal and informal IPC channels in the realm of human rights, assesses their respective strengths and weaknesses, and formulates recommendations to enhance IPC in this regard.

This study was requested by the European Parliament's Subcommittee on Human Rights.

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LIST OF ABBREVIATIONS

AFCO	European Parliament Committee on Constitutional Affairs
AFET	European Parliament Committee on Foreign Affairs
AFSJ	Area of Freedom, Security and Justice
AGRI	European Parliament Committee on Agriculture and Rural Development
AHRC	Ad Hoc Review Committee
BUDG	European Parliament Committee on Budgets
CFSP	Common Foreign and Security Policy
CODACC	Conference of Defence Affairs Committee Chairpersons
CoE	Council of Europe
COFACC	Conference of Foreign Affairs Committee Chairpersons
CONT	European Parliament Committee on Budgetary Control
COSAC	Conference of Parliamentary Committees for Union Affairs
CRIM	European Parliament Special Committee on Organised Crime, Corruption and Money Laundering
CRIM	European Parliament Special Committee on Financial, Economic and Social Crisis
CSDP	Common Defence and Security Policy
CWP	Commission Work Programme
DEVE	European Parliament Committee on Development
DG COMM	European Parliament Directorate General for Communication
DG EXPO	European Parliament Directorate General for External Policies
DG IPOL	European Parliament Directorate General for Internal Policies
DROI	European Parliament Subcommittee on Human Rights
ECHR	Convention for the Protection of Human Rights and Fundamental Freedoms/European Convention on Human Rights
ECJ	European Court of Justice
ECON	European Parliament Committee on Economic and Monetary Affairs
ECPRD	European Centre for Parliamentary Research and Documentation
EEAS	European External Action Service
EFG	Economic and Financial Governance of the European Union
EIDHR	European Instrument for Democracy and Human Rights
EMPL	European Parliament Committee on Employment and Social Affairs

EMU	Economic and Monetary Union
ENVI	European Parliament Committee on Environment, Public Health and Food Safety
EP	European Parliament
EPP	European People's Party
EU	European Union
EWM	Early Warning Mechanism
FEMM	European Parliament Committee on Women's Rights and Gender Equality
FRA	Fundamental Rights Agency
HR/VP	High Representative of the Union for Foreign Affairs and Security Policy/Vice-President of the European Commission
ICM	Inter-Parliamentary Committee Meeting
IMCO	European Parliament Committee on Internal Market and Consumer Protection
INTA	European Parliament Committee on International Trade
IPC	Inter-Parliamentary Cooperation
IPEX	Platform for EU Inter-Parliamentary Exchange
IPU	Inter-Parliamentary Union
JCM	Joint Committee Meeting
JPM	Joint Parliamentary Meeting
JURI	European Parliament Committee on Legal Affairs
LIBE	European Parliament Committee on Civil Liberties, Justice and Home Affairs
MEP	Member of the European Parliament
MP	Member of (national) Parliament
NATO	North-Atlantic Treaty Organization
NGO	Non-Governmental Organization
PECH	European Parliament Committee on Fisheries
REGI	European Parliament Committee on Regional Development
SEDE	European Parliament Subcommittee on Security and Defence
Speakers' Conference	Conference of the Speakers of the Parliaments of the European Union
TEU	Treaty on European Union
TFEU	Treaty on the Functioning of the European Union
TSCG	Treaty on Stability, Coordination and Governance in the Economic and Monetary Union
UN	United Nations

EXECUTIVE SUMMARY

This study (1) provides a concise overview of the range of activities currently being carried out by the European Parliament and the national parliaments of the European Union (EU) Member States as regards the promotion of human rights in the external policies of the EU; (2) examines the existing channels, methods, and tools of cooperation between the European Parliament and national parliaments as well as the differing opinions regarding the shape and content of inter-parliamentary cooperation as provided for in the Lisbon Treaty; (3) assesses the options for enhancing the cooperation between the European Parliament and EU national parliaments on the EU's human rights policy, including common projects, exchange of best practices and information, ensuring coherence and consistency, as well as setting up means of following up on common efforts; and (4) provides policy recommendations in this respect.

The Lisbon Treaty has significantly enhanced the roles of both the European Parliament and the national parliaments in European Union affairs and the recently adopted 'EU Strategic Framework and Action Plan on Human Rights and Democracy' has increased expectations about the EU's capacity to forge a more efficient human rights policy. Inter-parliamentary cooperation between the European Parliament and national parliaments can be seen as an essential tool to enhance democratic scrutiny, parliamentary accountability, and transparency in EU decision-making processes. In line with the objectives of the new EU human rights strategy, it is also an important tool to achieve coherence and complementarity between all human rights-related policies of the EU and its Member States.

After having identified a multitude of existing formal and informal inter-parliamentary arrangements, the study points to the respective strengths and weaknesses of inter-parliamentary cooperation and identifies potential ways to foster synergies between the existing channels. While IPC appears to fulfil its purpose as an avenue for exchanging information and sharing best practices among parliamentarians, there are concerns as to whether it can contribute to enhancing parliamentary input and scrutiny vis-à-vis European policies. The study also finds that parliamentarians tend to assess their own participation in light of budgetary and time constraints. As a result, the composition and participation rate of parliamentary delegations vary frequently, which may hinder the effective exchange of information, the development of a shared institutional memory, and ultimately the overall influence of IPC on EU policies.

After an overview of the range of activities of the European Parliament and national parliaments in the realm of human rights, the study assesses the existing and emerging frameworks of IPC. It finds that the success of IPC in the field of human rights hinges on the extent to which concrete and topical questions are addressed rather than broad, overarching themes. Indeed, the participation of parliamentarians constitutes a means to interact with EU officials, engage with civil society actors and, thus provide them with first-hand information about the EU's human rights policies, adding clout, especially for national parliamentarians, to their ability to hold domestic governments accountable. As the role of the European Union in promoting human rights often remains unclear beyond the level of the EU institutions, the study finds that inter-parliamentary meetings may be a first step towards more information-gathering about the EU's human rights policies. IPC exchanges on human rights cannot be imposed, however. Hence, this study evidences the need for continuous interactions among members of both the European Parliament and national parliaments as an important tool for exchanging information and best practices and enhancing parliamentary input and scrutiny at both the EU and national levels.

The study concludes by formulating a number of recommendations to enhance the cooperation between the European Parliament and national parliaments. First, it assesses ways in which the institutional and organisational framework of IPC can be optimised, thereby fostering synergies between the myriad of standing and *ad hoc* IPC bodies in order to mitigate the risk for 'IPC fatigue' which has steadily accompanied the increasing number and size of IPC meetings. Notable recommendations include the need to streamline the timing, scope, and agenda of these meetings; to ensure coherence and consistency in the composition of IPC delegations; and to consolidate the latest updates on IPC-related issues under one centralised information-hub. Second, the study looks at the salience of topics which may be addressed through the various existing IPC channels and bodies, thereby highlighting the importance of inviting participants to engage in targeted debates on timely human rights-related issues, which ought to result in visible outcomes (e.g. declarations or contributions) and effective paper trails for follow-up action. In turn, it is expected that this tangible output would nurture the development of an institutional memory and instil a sense of ownership in IPC participants. Third, aimed at enhancing IPC in the area of EU human rights policies, the study favours coherence and consistency in the collaboration between the relevant EP and national parliaments' committees, the integration of IPC deliberations in EP considerations of human rights issues, and the continuous mobilization of parliamentarians to acknowledge their role as human rights actors. In light of the added value of human rights-related IPC as an effective means to exchange information and share best practices among parliamentarians, moreover, it is also recommended to build lasting partnerships with other human rights actors by consistently inviting high-level participants from other EU institutions, international organisations, civil society and academia to IPC meetings, while making such meetings coincide with other high-level human rights-related events and initiatives.

1. INTRODUCTION

The entry into force of the Lisbon Treaty, with its commitment to put human rights, democracy, and the rule of law at the heart of the European Union's ('EU') internal and external policies¹, has brought forth a renewed impetus for the EU and its Member States to jointly ensure an effective implementation of the EU's human rights agenda through inter-parliamentary cooperation ('IPC'). From an institutional perspective, the European Parliament ('EP') has been empowered to act as a legislative 'human rights watchdog' vis-à-vis EU policy-making, whereas national parliaments may now exert their enhanced parliamentary oversight functions in EU affairs by 'contributing] actively to the good functioning of the Union'². At the same time, the 2011 Communication on Human Rights and Democracy proclaimed human rights to be 'a silver thread running through all EU action both at home and abroad'³, thereby requiring the 'collective weight of EU institutions and EU Member States'⁴ in order to render these human rights policies more credible and effective. Consolidating this aim with the adoption of the 2012 EU Strategic Framework and Action Plan on Human Rights and Democracy (see below, FIGURE 4), moreover, the EU reiterated that human rights 'underpin all aspects of the internal and external policies of the European Union', thereby carefully urging an 'ever more close' collaboration in order to 'realise the[...] common goal of improving respect for human rights'⁵. In spite of what has seemed to be fertile grounds for EU-wide parliamentary cooperation in the realm of human rights, however, the EP recently noted that its full involvement and greater coordination with national parliaments in the area of human rights was yet to come to fruition and subsequently 'called for improved cooperation on human rights issues with the national parliaments of the Member States'⁶.

The question to what extent this particular brand of IPC in the area of human rights is emerging, feasible, or even *a priori* desirable, is central to this study. As will be elaborated on below, IPC and its participating national parliaments have come a long way from their cautious introduction in the 1992 Maastricht Treaty to their elevation to a formal constitutional status in the Treaty of Lisbon. Although the Lisbon Treaty has generated opportunities for the conduct of IPC in the realm of human rights, many challenges still lie ahead as its additional innovations have rendered human rights considerations increasingly cross-cutting. Indeed, the Lisbon Treaty also introduced the institutional innovation of a High Representative/Vice President of the European Commission ('HR/VP') in charge of the European External Action Service ('EEAS')⁷ with its own tasks in promoting and protecting human rights worldwide. Furthermore, while Member States remain international actors in their own right, the Treaty on European Union ('TEU') asks the EU to arrive at a coherent and common action, including both the predominantly intergovernmental Common Foreign and Security Policy ('CFSP'), laid down in the TEU and the supranational policies laid down in the Treaty on the Functioning of the EU ('TFEU'), such as the

¹ See FRAME project – Fostering Human Rights Among European Policies, <http://www.fp7-frame.eu/>, accessed 21.11.2013.

² TEU art. 12.

³ European Commission, High Representative/Vice President of the European Commission, Joint Communication to the European Parliament and the Council: Human Rights and Democracy at the Heart of EU External Action – Towards a More Effective Approach (COM(2011) 886 final) 12.12.2011, p. 4.

⁴ European Commission, COM(2011) 886 final, 12.12.2011, p. 17.

⁵ Council of the European Union, EU Strategic Framework and Action Plan on Human Rights and Democracy (11855/12), 25.06.2012.

⁶ European Parliament resolution of 13 December 2012 on the review of the EU's human rights strategy (2012/2062(INI)), para. 83.

⁷ See for an overview: Wouters, J. et al., 'The Organisation and Functioning of the European External Action Service: Achievements, Challenges and Opportunities', European Parliament, Directorate-General for External Policies of the Union, Directorate B, Policy Department, EXPO/B/AFET/2012/07, 2013.

common commercial policy, development cooperation, humanitarian aid and environmental policies. EU Member States must coordinate their action in intergovernmental policies, while in TFEU matters the Union mostly has an exclusive or shared competence to act. Almost in defiance of this division of competences, however, human rights are still, and increasingly so, required to 'run as a silver thread'⁸ throughout all of these policies. Subsequently, the new constitutional architecture has raised the concern that a number of 'turf battles' are being waged among and between the EU's institutions and its Member States⁹. Given the cross-cutting nature of human rights at a time when the EU is very committed to their effective implementation, the role of IPC in human rights issues has been gaining prominence in the last few years. Notably, chairpersons of the human rights committees adopted the 2007 'Berlin Declaration on the Creation of a Parliamentary Human Rights Network in the European Union' and the EP has sought to bring national parliaments together at the 25 September 2013 Inter-Parliamentary Committee Meeting on EU Human Rights Policy¹⁰.

Given the HR/VP's and the EEAS' crucial role in formulating coherent and efficient external action, including on human rights, the quest for more parliamentary involvement as a means to soothe the EU's accountability and coherence record should come as no surprise. The Lisbon Treaty's empowerment of the EP and national parliaments enhances the momentum for reinforcing the parliamentary dimension of the EU, strengthening democratic control by and accountability to directly-elected parliaments and bringing about more transparency and openness in the decision-making process. Thus, the potential to increase the legitimacy of EU policy-making by collectively taking up parliamentary oversight functions and acting like a 'human rights watchdog' vis-à-vis other EU institutions emerges. At the same time, as long as Member States conduct foreign policies in their own right, it will be important to look for greater coherence between actions of the EU and Member States, including human rights policies in general and the implementation of the EU Strategy on Human Rights in particular.

An increased exchange of views, information-sharing, and mutual understanding between members of the European Parliament ('MEPs') and members of national parliaments ('MPs') could be an important step toward increased accountability of the EU's and Member States' external action across different parliamentary levels. The present study assesses the current challenges and opportunities in IPC and identifies options for enhancing the cooperation between the EP and EU national parliaments:

- The study first examines the existing channels, methods, and tools of cooperation between the EP and national parliaments as well as the differing opinions among parliamentarians regarding the shape and content of the cooperation foreseen in the Lisbon Treaty (section 2).
- Secondly, the study provides an overview of the range of activities currently being carried out by the EP and the national parliaments as regards the promotion of human rights in external policies. In doing so, it evaluates which of the existing or emerging frameworks of IPC could be used for closer cooperation in the realm of human rights (section 3).
- Thirdly, the study assesses the options and formulates recommendations for enhancing the cooperation between the EP and EU national parliaments on the EU's human rights policy, including common projects, exchange of best practices and information, ensuring coherence and consistency, as well as generating means of following up of the common efforts (section 0).

⁸ Cf. *supra*, note 3.

⁹ Wouters, J. and Ramopoulos, T., 'Revisiting the Lisbon Treaty's Constitutional Design of EU External Relations', Leuven Centre for Global Governance Studies, Working Paper No 119, 2013.

¹⁰ Agenda of the AFET/DROI Inter-Parliamentary Committee Meeting, 'The implementation of the EU Strategic Framework and Action Plan on Human Rights and Democracy', 25.09.2013.

As opposed to horizontal IPC on an international level, such as the EP's parliamentary diplomacy towards external actors in third countries and international organisations, or the inter-parliamentary cooperation amongst Member States' parliaments, this study focuses on vertical IPC between the EP and Member States' parliaments. The study then analyses how this plays out in relation to human rights promotion in the EU's external relations, notably as far as issues of coherence, effectiveness, and accountability are concerned. In order to ensure a thorough assessment of the existing channels, methods, and tools of cooperation, as well as of the activities currently being carried out by the EP and national parliaments as regards the promotion of human rights, various tools of data gathering were used. On the one hand, extensive desk work was carried out, including an academic literature review and an analysis of official documents. On the other hand, the authors have observed inter-parliamentary meetings in Brussels and carried out a number of interviews with officials and parliamentarians, both from the EP and national parliaments. To ensure objectivity of this assessment and foster an open dialogue with the interviewees, the choice was made to keep all names and affiliations confidential.

2. INTER-PARLIAMENTARY COOPERATION IN THE EUROPEAN UNION

2.1 Definition and Objectives

IPC in the EU can take place vertically between the EP and national parliaments or horizontally among the parliaments of Member States. As such, IPC is not a new phenomenon but has been taking place in various forms and fora since the earliest days of the European integration process¹¹. After progressively developing as a practice in the 1970s and 1980s, IPC garnered increasing attention with the Maastricht Treaty and now appears destined for an ever more important role since the Lisbon Treaty assigned national parliaments a formal constitutional status¹².

As Art. 12 TEU makes clear, 'national parliaments contribute actively to the good functioning of the Union', notably through the Early Warning Mechanism ('EWM') and subsidiarity scrutiny, but also by 'taking part in the inter-parliamentary cooperation'. Whereas it does not aim to elevate national parliaments to a full-fledged democratic control position, IPC nonetheless has the potential to empower national parliaments to play two fundamental roles: scrutiny of proposed legislation both at the EU and the national level, and provision of input on purported EU or domestic policies and legislation.¹³ IPC is implemented through a variety of means, ranging from informal exchanges of information and best practices through networking; formal or informal meetings aiming to discuss and coordinate on particular issues, to institutionalised fora with periodic meetings and fixed structures¹⁴.

¹¹ Jančić, D., 'The French Parliament: A European Scrutineer or National Actor?', 19 *European Public Law* 129, 2013, p. 133 fn 20.

¹² European Parliament, Report on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon (2008/2120(INI)), 13.032009, p. 10. See also Pernice, I., 'The Treaty of Lisbon: Multilevel Constitutionalism in Action', *Columbia Journal of European Law* No 15, 349, 2009, p. 391.

¹³ See European Parliament, Report on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon, *supra*, note 12, p. 4, para. I: 'whereas the primary task and function of the European Parliament and the national parliaments is to take part in legislative decision-making and to scrutinise political choices at, respectively, the national and the European level [...]'.
¹⁴ Sprungk, C., 'A New Type of Representative Democracy? Reconsidering the Role of National Parliaments in the European Union', 35 *European Integration* 547, 2013, pp. 550 ff.

According to the Lisbon Guidelines for IPC (see *infra*, section 2.2), the particular objectives of IPC are threefold:¹⁵

1. To promote the exchange of information and best practices between the national parliaments and the EP with a view to reinforcing parliamentary control, influence, and scrutiny at all levels.
2. To ensure effective exercise of parliamentary competences in EU matters – in particular in the area of monitoring the principles of subsidiarity and proportionality.
3. To promote cooperation with parliaments from third countries.

So described, IPC can be of a reactive nature when national parliaments seek to redress a situation with which they disagree (such as when challenging draft legislation), or of a proactive nature when national parliaments seek to contribute their views, expertise, or some context to debates about draft legislation. The increase in the role of national parliaments has been part of a debate dating back from the Convention on the Future of Europe which aimed to buttress the (democratic) legitimacy of the Union¹⁶, at a time when Euro-skepticism was on the rise and when further integration was sometimes regarded with distrust by citizens and national parliamentarians alike. In its reactive role as scrutiniser of the EU and national governments and in its proactive role as a contributor to EU and domestic legislation, IPC has the potential to act, as one scholar described it, as a 'virtual third chamber'¹⁷ representing the interests of national populations within an increasingly integrated Union.

2.2 The Legal and Institutional Framework

Joint meetings between specialised committees of national parliaments and the EP have been a regular feature since the 1990s¹⁸. IPC was the object of two declarations attached to the Maastricht Treaty and of Protocol No 9 to the 1997 Treaty of Amsterdam on the role of national parliaments in the European Union ('former Protocol No 9'), which formalised the information rights of national parliaments and the fundamentals of IPC, following calls by leading political figures to strengthen the collective role of national parliaments¹⁹. As these evolutions were spurred by emerging concerns about the EU's enlargement, bureaucracy, and alleged democratic deficit, the role of national parliaments was bound to be increased²⁰. Consequently, Declaration No 23 of the Treaty of Nice listed 'the role of national parliaments in the European architecture' as one of four questions which the next Intergovernmental Conference was to discuss.

¹⁵ Conference of Speakers of the European Union Parliaments, 'Guidelines for Inter-Parliamentary Cooperation in the European Union', Lisbon, 19-21.06.2008, art. I (hereinafter the 'Lisbon Guidelines').

¹⁶ Landfried, C., 'Difference as a Potential for European Constitution Making', *European Law Journal* No 12, 2006, pp. 764-787.

¹⁷ Cooper, I., 'A "Virtual Third Chamber" for the European Union? National Parliaments after the Treaty of Lisbon' (2012) 35 *West European Politics* 441, though speaking more of the Early Warning System.

¹⁸ Raunio, T., 'National Parliaments and European Integration: What We Know and Agenda for Future', *Journal of Legislative Studies* No 15, 317, 2009, 323.

¹⁹ Raunio, T., 'National Parliaments and European Integration', 2009, p. 323.

²⁰ See already in 2002, European Parliament, Report on relations between the European Parliament and the national parliaments in European integration (2001/2023(INI)), 23.01.2002, p. 6: 'B. whereas the democratic deficit is likely to become more acute in the Union because of lack of progress on democratic scrutiny of the integration process and recent developments in a number of areas, C. concerned at the serious imbalance that has arisen between the powers conferred on executive institutions and technical bodies and the scope afforded to the parliaments as a whole to participate in and scrutinise the legislative decisions and political choices of the Union, D. whereas it is necessary to strengthen the parliamentary component of the European institutional system in order to remedy the democratic deficit and ensure greater democracy in the Union'.

As a result, the December 2001 Laeken Declaration addressed, among other issues, the possibility of creating a standing IPC body and subsidiarity control in more precise ways²¹. The ensuing European Convention on the Future of Europe gave major attention, to the question of how to strengthen the involvement of national parliaments in its reform agenda²². However, in Working Group IV, which was in charge of the question²³, an overwhelming majority of national politicians were not in favour of setting up a new standing body which would only make the EU decision-making process more complex²⁴. The pragmatic solution that found its way into the Lisbon Treaty was to cast in stone a set of competences for national parliaments without endangering the institutional balance between EU institutions²⁵.

The role of national parliaments and of IPC is spelled out in Article 12 TEU and in Protocols No 1 on the role of national parliaments in the European Union ('Protocol No 1') and Protocol No 2 on the application of the principles of subsidiarity and proportionality ('Protocol No 2') to the Lisbon Treaty. Article 12 TEU reads as follows:

National Parliaments contribute actively to the good functioning of the Union:

1. through being informed by the institutions of the Union and having draft legislative acts of the Union forwarded to them in accordance with the Protocol on the role of national Parliaments in the European Union;
2. by seeing to it that the principle of subsidiarity is respected in accordance with the procedures provided for in the Protocol on the application of the principles of subsidiarity and proportionality;
3. by taking part, within the framework of the area of freedom, security, and justice, in the evaluation mechanisms for the implementation of the Union policies in that area, in accordance with Article 70 of the Treaty on the Functioning of the European Union and through being involved in the political monitoring of Europol and the evaluation of Eurojust's activities in accordance with Articles 88 and 85 of that Treaty;
4. by taking part in the revision procedures of the Treaties, in accordance with Article 48 of this Treaty;
5. by being notified of applications for accession to the Union, in accordance with Article 49 of this Treaty;
6. by taking part in the inter-parliamentary cooperation between national Parliaments and with the European Parliament, in accordance with the Protocol on the role of national Parliaments in the European Union.

²¹ See Conclusions of the Presidency, European Council Meeting in Laeken, 14-12.2001, p. 23: 'A second question, which also relates to democratic legitimacy, involves the role of national parliaments. Should they be represented in a new institution, alongside the Council and the European Parliament? Should they have a role in areas of European action in which the European Parliament has no competence? Should they focus on the division of competence between Union and Member states, for example through preliminary checking of compliance with the principle of subsidiarity?'

²² Ruiz de Garibay, D., 'Relations between national parliaments and the European Parliament: opportunities and challenges' (2011) ARI Paper No 153/2011, www.realinstitutoelcano.org/wps/portal/rielcano_eng/Content?WCM_GLOBAL_CONTEXT=/elcano/elcano_in/zonas_in/ari153-2011, accessed 21.11.2013.

²³ For historical overviews, see: Raunio, *supra*, note 18; Gattermann, K., Högenauer, A.-L. and Huff, A., 'A New Phase of Europeanisation of National Parliaments: Towards Mainstreaming of EU Affairs?', Paper presented at the EUSA Conference in Baltimore, 9-11.05.2013, www.euce.org/eusa/2013/browse.php?sort=author, accessed 21.11.2013; and Sprungk, *supra*, note 14.

²⁴ Matarazzo, R. and Leone, J., 'Sleeping Beauty Awakens: The Italian Parliament and the EU after the Lisbon Treaty', 46 The International Spectator 129, 2011; Ruiz de Garibay, *supra*, note 22.

²⁵ Jančić, *supra*, note 11.

The two dimensions of the contribution of national parliaments to the EU which we outlined above, namely input and scrutiny were rendered more precise in Protocols No 1 and 2 (whereby Protocol No 1 mirrors and expands on former Protocol No 9). The 'rules' of IPC were also substantiated in non-binding documents, such as the 'Lisbon Guidelines for Inter-Parliamentary Cooperation'²⁶.

2.3 In Practice: Channels and Methods of Inter-parliamentary Cooperation

Evidencing the importance of IPC and national parliaments in the EU and the increasing complexity of IPC channels, methods, and tools, the European Parliament has a dedicated Directorate on the relations with national parliaments, which is part of the Directorate-General for the Presidency²⁷, and whose 'objective is always to bring together the right people, on the right topic, at the right time.'²⁸

The EP has gone through some lengths to develop the full potential of IPC post-Lisbon. In 2009, it adopted a resolution based on an extensive report by MEP Elmar Brok in which it noted 'with satisfaction that its relations with the national parliaments and their members have developed fairly positively in recent years, but not yet to a sufficient extent' and expressed 'the opinion that new forms of pre- and post-legislative dialogue between the European Parliament and national parliaments should be developed.'²⁹ The Conference of Presidents of the EP then designated a 'Steering Group' on the relations with national parliaments, whose mandate was to develop 'pragmatic recommendations on how best to prepare the European Parliament for its future relations with national parliaments in the light of the Treaty of Lisbon' and which issued a number of recommendations which are, to a large extent, relevant to the present study³⁰. The EP then modified its rule of procedures to integrate the new status and prerogatives of national parliaments after Lisbon and to set a framework for IPC³¹.

Moreover, two EP vice-presidents are in charge of 'the implementation of the relations with national parliaments.' Particular IPC activities have in practice taken place through a variety of standing, *ad hoc* or informal channels, methods and tools, which we present below to paint the intricate picture of IPC within the EU.

The analysis will address, in turn, standing IPC bodies (i.e. those IPC channels which take the form of an established body meeting regularly to discuss well-defined issues) and informal IPC events (i.e. those IPC channels meeting on an *ad hoc* basis in a somewhat looser format).

2.3.1 Standing IPC Bodies

The oldest and most established 'body' of IPC is the **Conference of the Speakers of the Parliaments of the European Union**, which first met in 1963 in Rome³². The Conference is composed of the speakers of all EU national parliaments and the President of the EP. Speakers of the Parliaments of candidate countries are also invited.

It meets on an annual basis in the first semester and meetings are held and organised by the parliament of the EU Member State which held the Council Presidency during the second semester of the previous

²⁶ Lisbon Guidelines, *supra*, note 15.

²⁷ See www.europarl.europa.eu/aboutparliament/en/00d7a6c2b2/Secretariat.html?tab=eParliament_secretariat_dgpres, accessed 21.11.2013.

²⁸ See www.europarl.europa.eu/webnp/cms/pid/1900, accessed 21.11.2013.

²⁹ See European Parliament, Report on the development of the relations between the European Parliament and national parliaments under the Treaty of Lisbon, *supra*, note 12.

³⁰ See www.europarl.europa.eu/webnp/cms/pid/1905, accessed 21.11.2013.

³¹ See European Parliament, Rules of Procedure, 7th parliamentary term (July 2013) rules 130-132.

³² See www.ipex.eu/IPEXL-WEB/euspeakers/getspeakers.do?id=082dbcc5319ee5f60131b9039bbc0adb, accessed 21.11.2013.

year³³. Extraordinary meetings may also be convened³⁴. In this high-profile yearly event, all Member States and candidate countries are systematically represented, with some Member States sometimes sending delegations of over 20 people.

The Conference's 'rules of procedure' are defined in the 'Stockholm Guidelines' adopted in 2010³⁵. In terms of agenda, the Presidency of the Conference draws up a draft agenda and the parliaments' secretaries-general hold a preparatory meeting in advance of the Conference meeting to finalise the agenda and flesh out the topics to be discussed in the plenary meeting. The Conference may establish working groups to address matters concerning the role of parliaments and the organisation of parliamentary functions and to prepare discussions of more complex matters. After the meeting, the Presidency issues 'Conclusions' which should 'reflect the common view of the Conference and should not include statements of a political nature.' They are not binding on the members of the Conference³⁶.

As per the Stockholm Guidelines, the Conference's objectives are threefold:

1. The Conference of Speakers, with full respect for the different powers vested in its members, aims at safeguarding and promoting the role of parliaments and carrying out common work in support of the interparliamentary activities.
2. To this end the Conference is a forum for the exchange of opinions, information and experiences among the Speakers, on topics related to the role of parliaments and the organisation of parliamentary functions, for the promotion of research activities and common action, and also with respect to the forms and instruments of interparliamentary cooperation.
3. The Conference shall oversee the coordination of interparliamentary EU activities.

The Conference is therefore seen as the 'leader' of IPC activities as defined more precisely in articles 9 and 10 of Protocol No 1³⁷. As such, it does not primarily reflect on issues of substance, but rather on IPC itself and its applications. In that capacity, for example, it authored the abovementioned Lisbon Guidelines for Inter-Parliamentary Cooperation in the EU in June 2008. One respondent to the interviews conducted for this study emphasised the importance of the Conference of the Speakers as a tool for shaping a 'European conscience' among parliamentarians of the EU. By bringing together speakers of all EU parliaments and rather sizeable delegations from all Member States, it is appreciated as an important networking opportunity and a means to sensitise MPs to their 'active contribution to the good functioning of the Union.' Also, the Conference is a crucial actor of IPC itself, as it is entrusted with designing the channels, methods, and tools of IPC. Through this role, the Conference is the guarantor that IPC is meaningful, effective, and responds to the objectives for which it was inceptioned as a constitutional mechanism in the Treaty of Lisbon. For example, at its April 2013 meeting in Nicosia, the Conference lengthily discussed the democratic relevance of a strong IPC in the field of EU economic governance and therefore decided on the establishment and format of the Conference to be

³³ See Conference of Speakers of the European Union Parliaments, The Stockholm Guidelines for the Conference of Speakers of EU Parliaments, Stockholm, 15.05.2010, art. 3.2. (hereinafter the 'Stockholm Guidelines').

³⁴ Extraordinary meetings of the conference were held on occasion, for example in early December 2009 on the theme 'Preparing for the Lisbon Treaty'. See the full list of Conference meetings at www.ipex.eu/IPEXL-WEB/euspeakers/getspeakers.do?id=082dbcc541c6db4c0141cac040dc02ef, accessed 28.11.2013.

³⁵ See www.ipex.eu/IPEXL-WEB/euspeakers/getspeakers.do, accessed 21.11.2013.

³⁶ Stockholm Guidelines, art. 5.1.

³⁷ See www.europarl.europa.eu/webnp/cms/pid/8, accessed 21.11.2013.

established on the basis of Article 13 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, which met for the first time in October 2013 (see *infra*)³⁸.

The second most high-profile IPC 'body' is the **Conference of Parliamentary Committees for Union Affairs** ('COSAC')³⁹. It was established in 1989 and was formally recognised in paragraphs 4 ff. of the former Protocol No 9. It is normally composed of 6 representatives of each national parliament and of the EP, though in practice the size of delegations varies and Member States with a bicameral system sometimes choose not to send a representation for both chambers.

COSAC meets twice a year in the country holding the Council's Presidency, and has a Permanent Secretariat based in Brussels, composed of officials from the Parliaments of COSAC's Presidential Troika (previous, current and upcoming Council Presidency) and a Permanent Member who supports the Secretariat in its activities⁴⁰. COSAC meetings are also preceded by and prepared during a meeting of the EU Affairs Committee Chairpersons⁴¹.

COSAC's task is to enable a regular exchange of information, best practices, and views on EU matters. In this regard, its agenda is normally designed to mirror the Commission Work Programme ('CWP')⁴². COSAC is therefore an IPC body which is very much focused on substance and in that capacity, Art. 10 of Protocol No 1 states that it may submit any contribution it deems appropriate for the attention of the European Parliament, the Council and the Commission. The Conference shall in addition promote the exchange of information and best practice between national Parliaments and the European Parliament, including their special committees. It may also organise interparliamentary conferences on specific topics, in particular to debate matters of common foreign and security policy, including common security and defence policy. Contributions from the Conference shall not bind national Parliaments and shall not prejudge their positions.

To reflect its work, COSAC issues biannual reports in which it addresses a vast range of themes (amongst which human rights, see below), from both input and scrutiny angles. The biannual reports are also supported by extensive minutes, questionnaires circulated among parliamentarians, and by conclusions highlighting salient issues or suggesting topics for further consideration⁴³. A 'contribution' is also typically issued, which is of a more political nature and comments on latest EU policy developments during the current Presidency scrutinises legislative procedures (notably ongoing 'yellow card' procedures in the framework of the EWM) and discusses issues of current political significance, such as the 2014 EP elections, or other more long-term policy issues, such as the implementation of the Europe 2020 strategy⁴⁴. COSAC is a respected IPC body, whose standing among national parliaments is evidenced by the good response rate it gets to its questionnaires for the biannual reports⁴⁵. However,

³⁸ Conference of Speakers of the European Union Parliaments, Presidency Conclusions of the Conference of Speakers of EU Parliaments, Nicosia 21-23.04.2013, pp. 6 ff.

³⁹ Gattermann, Högenauer, Huff, *supra*, note 23. This high profile was also mentioned by several respondents.

⁴⁰ See generally European Parliament, Rules of Procedure of the Conference of Parliamentary Committees for Union Affairs of Parliaments of the European Union, 04.08.2011, OJ C 229/01.

⁴¹ See www.europarl.europa.eu/webnp/cms/pid/9;jsessionid=425E8CA407E9F3E646EF2D7D4EB7F6FE, accessed 21.11.2013.

⁴² COSAC, Contribution of the XLIV COSAC, Brussels, 24-26.10.2010, para. 4.2.

⁴³ Certain parliaments now choose to issue separate opinions to facilitate the adoption of COSAC conclusions. See European Parliament, Report on 'Interparliamentary relations between the European Parliament and national Parliaments under the Treaty of Lisbon' 2012 (2012), p. 7 (hereinafter '2012 IPC Report').

⁴⁴ See generally COSAC, Contribution of the L COSAC, Vilnius, 27-29.10.2013.

⁴⁵ Ruiz de Garibay, *supra*, note 22 COSAC has however been complaining lately about delays in responses: see COSAC, Conclusions of the L COSAC, Vilnius, 27-29.10.2013, p. 1.

for addressing substantive issues through IPC, a trend can be observed towards more specialised fora (see *infra*).

According to a number of national and European parliaments' members and officials who responded to our inquiries, COSAC seems to have entered some sort of identity crisis. Its real institutional role and impact on policy are unclear and, with repeated waves of enlargement adding more and more participants, its internal organisation has become cumbersome and to some extent ineffective⁴⁶. What some would call a 'dinosaur', is not working as it should⁴⁷, and in addition it has been noted that in a number of cases, national parliaments do not prepare COSAC meetings thoroughly in advance or debrief afterwards⁴⁸. This is a surprising development, as pointed out by one respondent, as COSAC is still considered by a number of respondents 'to be the most important body in IPC' and has been noted to at least potentially bring added value to national legislatures, especially to parliaments of the newer EU Member States⁴⁹. COSAC is particularly appreciated for being a useful source of information and best practices (notably on the scrutiny of EU affairs by national parliaments) and for organising coordinated subsidiary checks and exchanges of views with Ministers and Members of the Commission and the Council. It is also an opportunity for national parliamentarians to meet colleagues from other EU parliaments⁵⁰. COSAC, as the most structured IPC body therefore has the potential, if its organisational difficulties were remedied, to see its discussions be turned into real input at EU level through its submissions⁵¹. In this regard, in order to reduce the excessive mass effect and to avoid overly broad discussions as a result, suggestions have recently been made to organise informal sub-events on certain themes during the COSAC plenary meetings, or that parliaments 'initiate more parliamentary clusters of interest to examine specific issues of EU policy-making.'⁵²

As a way to introduce some level of focus in large-scale IPC events, the tendency has been to create 'specialised' Conferences during which IPC constituencies will, on a regular basis, discuss and exercise scrutiny regarding evolutions in fields that are particularly sensitive from a democratic legitimacy point of view. So far, two such permanent specialised conferences have been created: the Inter-Parliamentary Conference on CFSP/CSDP and the Inter-Parliamentary Conference on Economic and Financial Governance of the European Union.

The **Inter-Parliamentary Conference on CFSP/CSDP** was set up by decisions of the Conference of the Speakers adopted during its meetings in Brussels in April 2011 and in Warsaw in April 2012. The Conference convened for the first time in 2012 in Warsaw. It replaces and upgrades the former Conference of Foreign Affairs Committee Chairpersons ('COFACC') and Conference of Defence Affairs Committee Chairpersons ('CODACC'). The Conference is composed of 6 delegates per Member State and 16 delegates from the EP. Moreover, EU candidate countries and European member countries of

⁴⁶ Matarazzo and Leone, *supra*, note 24.

⁴⁷ This point of view was expressed by a number of respondents. See also European Parliament, Report on 'Interparliamentary relations between the European Parliament and national Parliaments under the Treaty of Lisbon' 2010-2011 (2010/2011), insisting on dialogue 'at committee level', p. 17 (hereinafter '2010/2011 IPC Report').

⁴⁸ COSAC, Thirteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, May 2010, pp. 32-34.

⁴⁹ Raunio, *supra*, note 18.

⁵⁰ COSAC, Thirteenth Bi-Annual Report, *supra*, note 48, p. 32.

⁵¹ Ruiz de Garibay, *supra*, note 22.

⁵² COSAC, Conclusions of the L COSAC, Vilnius, 27-29.10.2013, pp. 1-2.

NATO (excluding EU Member States), can be represented by a delegation of 4 observers each. The HR/VP is also invited⁵³.

The Conference meets twice a year either in the country holding the Council Presidency or at the EP in Brussels. The Presidency's parliament is in charge of organising and presiding over the meeting and drawing up the agenda, 'in close cooperation with the European Parliament.'⁵⁴ It has a Secretariat which is 'provided' by the Presidency's parliament, again in close cooperation with the EP and with the troika of the previous and next Presidency parliaments⁵⁵. The Conference issues conclusions at the end of its proceedings, which typically take the form of a resolution recording the points discussed and stating the Conference's commitments or concerns in that respect. Conclusions are adopted by consensus and are non-binding.

The Conference's creation was motivated by the express mention of the role of national parliaments in the scrutiny of CFSP and CSDP in Art. 10 Protocol No 1, reflecting the fact that the nature of those policies is still very much considered to be of a 'special' and sovereign nature⁵⁶, required transparency as well as specific oversight and legitimation by national parliaments, especially as Union policies in those domains are becoming increasingly important and institutionalised. Therefore, the Conference is meant to serve as a framework for the exchange of information and best practices in the areas of CFSP and CSDP⁵⁷. It allows national parliaments and the EP to exercise their parliamentary scrutiny function on CFSP/CSDP in a joint and coordinated manner. This was designed as a soft process:

The goal of this new structure is to ensure the monitoring of the CFSP/CSDP from a parliamentary point of view (scrutiny) rather than truly to control it (control), which would involve a competence of sanction. The Parliamentary Conference has above all an informative function which, on the one hand, should enable the national parliaments to better scrutinise their own governments with regard to the intergovernmental dimension of the CFSP/CSDP and which, on the other, should enable the European Parliament to exercise its functions within the European institutional framework⁵⁸.

Democratic scrutiny of CFSP and CSDP is an essential feature of IPC, as evidenced by its inclusion in Protocol No 1 and the above paragraph. However, some national parliamentarians have expressed the same reservations with regard to the Conference as with COSAC, namely that the size of the event has been a hindrance to fruitful exchanges of views and interactions amongst participants. Even though it is a less open process, the more limited predecessor to the Conference, COFACC, gathering only the chairpersons of the NPs' foreign affairs committees, was by some preferred to the Behemoth-like 6-delegates-per-country conference⁵⁹. Also, just as for COSAC, national parliaments may feel that their contribution to the debates is limited by several factors. First of all, with so many delegations, speaking

⁵³ See Rules of Procedure of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, Paphos, 9-10.09.2012, art. 2.

⁵⁴ Rules of Procedure of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, 9-10.09.2012, art. 3.

⁵⁵ Rules of Procedure of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, 9-10.09.2012, art 6.

⁵⁶ Conference of Speakers of the European Union Parliaments, Presidency Conclusions, Stockholm, 14-15.05.2010, p. 4.

⁵⁷ Wouters, J. and Raube, K., 'Seeking CSDP Accountability through Interparliamentary Scrutiny', 47 The International Spectator 149, 2012.

⁵⁸ Conference of Speakers of the European Union Parliaments, Presidency Conclusions, Brussels, 4-5.04.2011, p. 5.

⁵⁹ In fact, in 2010 COSAC had recommended against establishing a new body for the sole purpose of scrutinizing CFSP and CSDP issues: see COSAC, Contribution of the XLIV COSAC, Brussels, 25-26.10.2010, para. 2.1.

time is limited. Second, with a 16-members delegation⁶⁰, better resources and an important contingent of support staff, the EP is *de facto* taking over the organisation and leading the debates, sometimes leaving national parliamentarians frustrated about their own level of input.

In this regard, pursuant to article 9 of the Rules of Procedures, an *Ad Hoc* Review Committee ('AHRC') was appointed to evaluate the functioning of the Conference after 18 months. Preliminary recommendations to the AHRC have been formulated by the Lithuanian Presidency at the Vilnius meeting of October 2013, among which it was notably proposed to change the name of the Conference to an acronym ('COFDAC' was proposed by Croatia and later recommended by the Lithuanian Presidency), but more importantly that '[a]part from the plenary meetings, side events, such as topical debates in smaller groups, working groups or concurrent break-out sessions, [...] be organised in the framework of the Inter-Parliamentary Conference'⁶¹, reflecting again the need for IPC to convene, when discussing substantive issues, as smaller and more targeted events.

Finally, the latest addition to the constellation of IPC standing bodies has been the **Inter-Parliamentary Conference on Economic and Financial Governance of the European Union** or 'Inter-Parliamentary Conference on EFG'. Based on Art. 13 of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union ('TSCG') it was established by the EU Speakers' Conference in April 2013. Following the crippling economic, financial, and monetary crisis, economic governance and most notably the 'European Semester' had become an important topic in recent IPC events and a subject of concern regarding its democratic legitimacy, as the architecture of the Economic and Monetary Union ('EMU') has been undergoing profound changes toward stricter rules and closer coordination, notably with the adoption of the so-called 'Six-Pack', 'Two-Pack', and of the aforementioned new Treaty.

The Conference follows the formula of the Inter-Parliamentary Conference on CFSP/CSDP and replaces the meetings of the chairpersons of the respective committees. It is composed of representatives of all parliaments and of the EP, though this time, each parliament is free to determine the composition and size of its delegation⁶². Member(s) of the Commission responsible for economic and monetary affairs are also invited⁶³.

The Conference convened for the first time in October 2013 and was organised by the Lithuanian Parliament. Future sessions will be held biannually and follow the European Semester Cycle. A meeting will be held in the first semester in Brussels and presided over jointly by the EP and the parliament of the Member State holding the Council Presidency, while in the second semester the meeting will be held and presided over parliament of the Member State holding the Presidency. The organisation and the secretariat are of the responsibility of the hosting parliaments⁶⁴, and, like its counterpart on CFSP/CSDP, the Conference may adopt non-binding conclusions. At its first meeting, it also adopted a 'Contribution', though the document mostly records debates and does not make political statements beyond restating the importance of democratic scrutiny and accountability in economic governance.

⁶⁰ Rules of Procedure of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, Paphos, 9-10.09.2012, art. 2.1.(b).

⁶¹ Inter-Parliamentary Conference on CFSP/CSDP, Initial Recommendations of the Seimas of the Republic of Lithuania as the Presidency Parliament on the Rules of Procedure of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy to the *Ad Hoc* Review Committee Working Group, Vilnius, 05.09.2013, recommendation No 2, p. 2.

⁶² Conference of Speakers of the European Union Parliaments, Presidency Conclusions, Nicosia, 21-23.04.2013, p. 5.

⁶³ Rules of Procedure of the Inter-Parliamentary Conference on Economic and Financial Governance of the European Union, Draft of the Seimas of the Republic of Lithuania, 01.10.2013, art. 4.3.

⁶⁴ Conference of Speakers of the European Union Parliaments, Presidency Conclusions, Nicosia, 21-23.04.2013, p. 6.

The focus of the Conference on ensuring accountability, democratic legitimacy, and parliamentary scrutiny into EU policies is even more forcefully insisted upon by the participants in the Conference, showing evidently that the crisis and the stringent rules and policies developed by the Union as a response to it are a subject of deep concern to citizens and their representatives and that the close association of national parliaments is seen as particularly relevant to soothe worries in this regard. For example, the Presidency Conclusions of the first meeting indicate that in response to the economic and financial crisis over the last few years the architecture of economic governance in the EU has undergone substantial changes and that it is crucial that these changes are followed by adequate mechanisms to ensure effective parliamentary control as well as democratic legitimacy and accountability of the new governance structures⁶⁵.

The rules of procedures of this particular body are still to be decided on (a working group has been established to draw them up⁶⁶ based on a draft submitted by the Lithuanian Presidency⁶⁷), but it may be feared that creating another enormous body may have the same perverse effects as those encountered in relation to COSAC and the Conference on CFSP/CSDP, namely organisational difficulties, risk of overbroad discussions, lack of sense of personal involvement of participants, and the over- and under-representation of some members. It is still too early to determine whether the Conference will suffer from those ailments, as it only convened once, but it may already be noted that the draft rules of procedure include a proposal to 'side events, such as topical debates in smaller groups, working groups, or break-out sessions [...] in the framework of the Interparliamentary Conference on EFG, including by Parliaments other than the presiding Parliament(s)⁶⁸', and that a review of the functioning of the Conference would be conducted in 2015.

One can see from this enumeration that the number of standing IPC bodies has been increasing in recent years, mirroring the expansion of Union competences in critical domains, warranting, as expressly acknowledged in the Lisbon Treaty, closer democratic input and scrutiny in the form of IPC. To the two early standing bodies of IPC with rather generalist mandates – the Conference of the Speakers and COSAC – two large scale conferences on specialised topics – foreign policy and economic governance – have been added as a replacement for the smaller-scale and less visible meetings of relevant committee chairs. This evolution reflects a deep concern for democratic legitimacy in those highly sensitive policy fields. However, with their growing membership resulting from enlargement and their unrelenting periodicity, practical problems start emerging. First of all, the piling up of IPC meetings may severely constrain the time and financial resources of certain parliaments and MPs. In regular years, alongside the Speakers' Conference, six other large-scale IPC meetings will be held: COSAC, Conference on CFSP/CSDP, and Conference on EFG – each twice. According to some of the MP respondents, coupled with the other types of *ad hoc* meetings described in the next section, this could lead to 'IPC fatigue', even though in most cases the individual representatives participating in those meetings would not be the same every time. Still, subsequently debating and debriefing those meetings at home may crowd up the agenda and prove difficult to do systematically in the long run⁶⁹. Moreover, as the responsibility for hosting those meetings often befalls the Member State holding the Council Presidency, the challenge of organisation can be tough to meet, especially for smaller Member States, even if the burden of organisation is at times shared with the EP and the members of the Presidential

⁶⁵ Inter-Parliamentary Conference on EFG, Presidency Conclusions, Vilnius p. 1.

⁶⁶ Inter-Parliamentary Conference on EFG, Contribution, Vilnius, 16–17.10.2013, p. 2.

⁶⁷ See www.lrs.lt/intl/presidency.show?theme=284&lang=2&p_sp_reng_id=28, accessed 21.11.2013.

⁶⁸ Rules of Procedure of the Inter-Parliamentary Conference on Economic and Financial Governance of the European Union, Draft of the Seimas of the Republic of Lithuania, 01.10.2013, art. 3.6.

⁶⁹ See COSAC, Thirteenth Bi-annual Report, *supra*, note 48, pp. 32 ff.

Troika. For example, in less than two months-time (from 4 September to 29 October) in 2013, Lithuania had to host and organise the COSAC meeting and the two specialised Conferences, including catering for several hundred people each time. According to some respondents, this is plainly too much.

Therefore, despite consensus about the crucial character of IPC meetings to exercise democratic scrutiny over EU policies, especially the most sensitive ones, some participants in those events who responded to our interview requests complained about the accumulation of meetings and their ever-increasing size, which dilute input, overcrowd agendas, and constrain resources. Some have also argued against the systematic use of the plenary format, which tends to water down the substance of the debates.

2.3.2 Ad Hoc IPC Meetings

Alongside standing IPC bodies, another practice has developed, namely that of holding *ad hoc* IPC meetings on specific issues in a more informal framework. The frequency and type of those events varies, but a number of blueprints can be identified.

Joint Parliamentary Meetings ('JPMs') and **Joint Committee Meetings** ('JCMs') represent a particularly cooperative modus of IPC. The meetings are jointly organised by the EP and the parliament of the Member State holding the rotating Council Presidency, which entails that decisions on the topic, agenda, and speakers of the meeting, as well as on technical matters, are taken in partnership by both organisers. JPMs and JCMs are hosted by the EP in Brussels and are jointly chaired by either the Presidents of the organising parliaments (JPMs) or by the Chairpersons of the participating committees (JCMs). Within the EP, the Directorate for Relations with National Parliaments is tasked with the preparation and organisation of the meetings.

JCMs provide a discussion forum for parliamentarians from the respective committees of the European Parliament and the national parliaments on issues of common concern, possibly on a topic that corresponds to the priorities of the Presidency⁷⁰. Past meetings have addressed a variety of issues, ranging from development cooperation, to agriculture, transport, energy, or the single market⁷¹. Noticeably, the frequency of JCMs has always been low and is further decreasing. Four meetings were held in the years 2008/2009, two followed in 2011, and another meeting will be organised on 17 December 2013 by the EP and the Lithuanian Seimas. This corresponds to the perception that the organisational effort and long-term planning required for the hosting of a JCM render this forum unsuitable for effective contribution 'to the actual daily work of the European Parliament'⁷². While participating MEPs positively noted the opportunity for a broad exchange of views, they regretted the lack of 'concrete results'⁷³. Consequently, the Steering Group on National Parliaments, which was established by the Conference of Presidents of the EP in 2009, recommended that in light of 'the need for a coordinated preparation of these meetings no more than two Joint Committee Meetings should be conducted in total during each semester as a general rule'⁷⁴.

⁷⁰ Cf. only the JCM on "The EU Internal Energy Market for the 21st Century" (17.12.2013), held jointly with the Lithuanian Presidency, which lists the response to energy challenges as one of its priorities, www.eu2013.lt/en/presidency-and-eu/programme-and-priorities, accessed 19.11.2013.

⁷¹ See the list on the website of the European Parliament's Directorate for Relations with National Parliaments, www.europarl.europa.eu/webnp/cms/pid/1605, accessed 19.11.2013.

⁷² European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 9.

⁷³ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 9.

⁷⁴ Steering Group on National Parliaments, Recommendations to the Conference of Presidents, 2010, p. 5.

At the committee level, IPC now appears to move away from JCMs and towards Inter-Parliamentary Committee Meetings ('ICMs', see *infra*, this section), to which committees of the EP unilaterally invite their national counterparts. While ICMs offer advantages in terms of flexibility and effort, it may not be overlooked that JCMs have the benefit of giving visibility to the co-hosting national parliament and open up the opportunity to put an issue of priority for the Council Presidency on the IPC agenda. Responding to a concern which was frequently mentioned by national officials and parliamentarians in the interviews conducted for this study, the joint organisation by the EP and a national parliament may also contribute to avoiding the intimidating effect of the seemingly overpowering EP machinery, which not only initiates and convenes many IPC meetings, but also sets the agenda and impresses through the sheer size and formation of its delegation. The equitable involvement of a national parliament may lessen this perceived 'power divide'.

JPMs face even stronger concerns than the joint meetings at the committee level. They are intended to provide a venue for discussing overarching topics that are of concern to more than one committee. Past meetings have dealt, among others, with demographic change and social cohesion, the economic crisis, and sustainable development.⁷⁵ The overall goal of JPMs is thereby not to formulate a concrete common standpoint, but rather to 'improve' parliamentary awareness of the need for oversight and control over decisions taken at EU level' as well as to 'reinforce' the links between parliamentarians belonging to the same political families⁷⁶. Attendance rates in JPMs are on the wane and evidence a decreasing interest in a format focusing on broad and general discussions⁷⁷. This may be due to a potential overlap with other generalist bodies such as COSAC and the agenda overload it may entail. Furthermore, the amount of preparation required for the organisation of a JPM, as well as the aim to 'yield more tangible results', prompted the Steering Group on National Parliaments (see *supra*) to advise against holding more than one such meeting per semester⁷⁸. The Steering Group also highlighted the importance of the choice of topic and of format, urging for a clear focus on issues which are of priority for the EU and the Member States, 'as well as to provide a programme, speakers and other modalities [...] which can attract participants, contribute to fruitful discussions and help to achieve visible results'⁷⁹. Recognizing the importance of inter-party links, the recommendation was also made to 'allow sufficient time for MEPs and NP Members to meet each other within their political families, especially prior to the meeting'⁸⁰. Such practice has for example become systematic in COSAC and other specialised Conference meetings.

Evidencing the difficulties encountered by this format, no JPM has been held since December 2011, while the frequency of IPC meetings at the committee level is increasing. It would, however, be too early to conclude that JPMs are an extinct format of IPC. Although not tailored to suit the everyday parliamentary work, JPMs may prove to be an effective forum for creating a parliamentary dynamic on certain transversal topics, provided they can find their niche and avoid overlap with standing bodies such as COSAC.

As indicated above, among *ad hoc* IPC events, **Inter-Parliamentary Committee Meetings** ('ICMs') are developing into the dominant form of IPC, both in terms of frequency, interest, and prominence. ICMs

⁷⁵ See the list on the website of the European Parliament's Directorate for Relations with National Parliaments, www.europarl.europa.eu/webnp/cms/pid/10, accessed 19.11.2013.

⁷⁶ See www.europarl.europa.eu/webnp/cms/pid/10, accessed 19.11.2013.

⁷⁷ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 10.

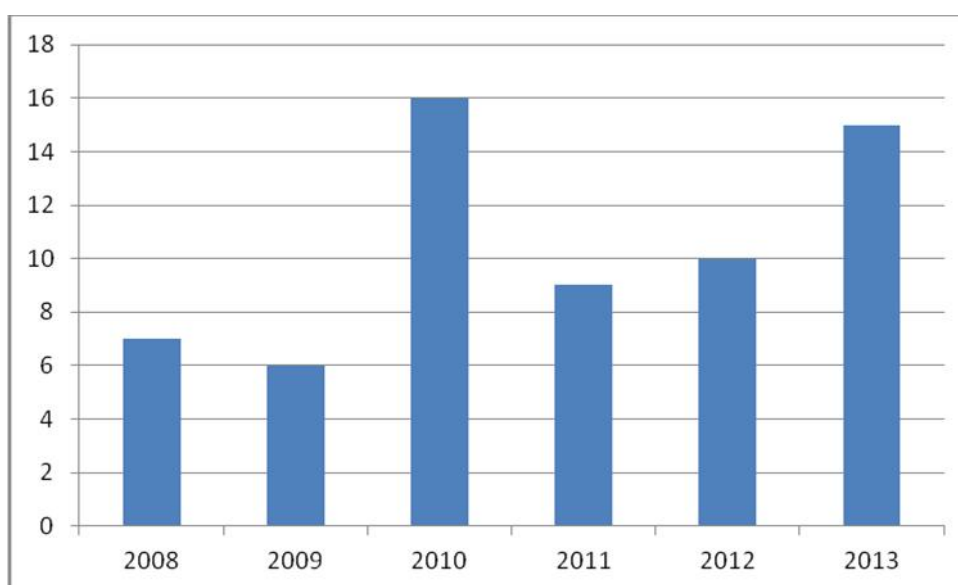
⁷⁸ Steering Group on National Parliaments, Recommendations to the Conference of Presidents, 2010, p. 5.

⁷⁹ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 10.

⁸⁰ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 10.

are held at the initiative of one or more sectoral committees of the EP, which organise the meetings unilaterally, with the assistance of the Directorate for Relations with National Parliaments and invite the members of the corresponding national parliamentary committees⁸¹. Since 2006, 64 ICMs have been convened, and increasingly so since the entry into force of the Lisbon Treaty⁸². The involvement of the different committees in the organisation of ICMs varies considerably. While the Committee on Legal Affairs, the Committee for Economic and Monetary Affairs and the Foreign Affairs Committee have been hosts or co-hosts of nine and eight ICMs respectively, a number of committees have only once initiated or never initiated an ICM. Thematically the meetings focus on those policy areas which fall under the ordinary legislative procedure, and frequently coincide with the final stages of a concrete legislative proposal⁸³.

FIGURE 1: NUMBER OF ICMs PER YEAR



Sources:

2008-2011: European Parliament, Directorate for Relations with National Parliaments, *Yearbooks National Parliaments European Parliament 2008-2011*;

2012: European Parliament, Report on 'Interparliamentary relations between the European Parliament and national Parliaments under the Treaty of Lisbon' 2012;

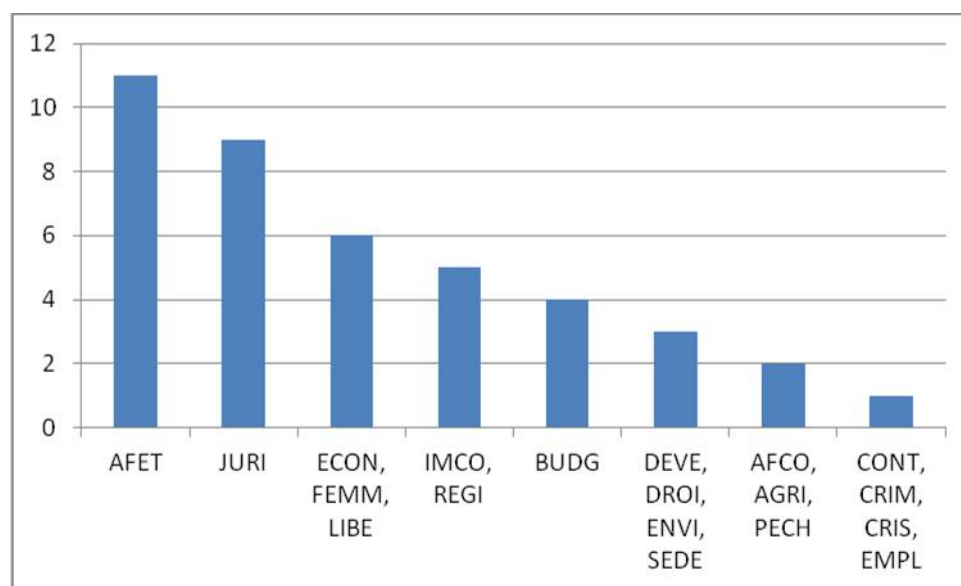
2013: European Parliament, Directorate for Relations with National Parliaments, *Interparliamentary meetings organised by the European Parliament*, www.europarl.europa.eu/webnp/cms/pid/11, accessed 4 December 2013.

⁸¹ See *infra*, Figure 2; and Ruiz de Garibay, *supra*, note 22.

⁸² See the list on the website of the European Parliament's Directorate for Relations with National Parliaments, www.europarl.europa.eu/webnp/cms/pid/11, accessed 19.11.2013.

⁸³ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 10.

FIGURE 2: NUMBER OF ICMs IN WHICH STANDING OR SPECIAL COMMITTEES OF THE EUROPEAN PARLIAMENT ACTED AS HOST OR CO-HOST



Sources:

2008-2011: European Parliament, Directorate for Relations with National Parliaments, *Yearbooks National Parliaments European Parliament 2008-2011*;

2012: European Parliament, Report on 'Interparliamentary relations between the European Parliament and national Parliaments under the Treaty of Lisbon' 2012;

2013: European Parliament, Directorate for Relations with National Parliaments, *Interparliamentary meetings organised by the European Parliament*, www.europarl.europa.eu/webnp/cms/pid/11, accessed 4 December 2013.

The Steering Group on National Parliaments stated in its 2010/2011 report that ICMs have 'largely succeeded as a tool for promoting an effective form of dialogue'⁸⁴ – an assessment which was generally shared by the MEPs, MPs and officials interviewed for this study. The format enjoys particular popularity because meetings usually focus on specific topics and allow for exchanges between specialists in the relevant field. There appears to be a correlation between the delimitation of the agenda and the perceived success of the meeting: the narrower the topic the more useful a meeting is deemed by the respondents, an observation which is corroborated by the EP Directorate's 2012 IPC report: 'the most appreciated meetings [...] were those with the most precisely defined agendas featuring clearly grouped topics'⁸⁵. ICMs can gain particular strength if they combine an appealing agenda with good timing. Respondents commented positively on those ICMs which connected with current events, including meetings scheduled in the preparatory stages of a legislative proposal. As one respondent quipped: 'parliamentarians are not academics; they are only interested in salient topical issues which will ensure media coverage'. Furthermore, particularly successful ICMs produced outcome documents as tangible tokens of the inter-parliamentary work conducted, thereby heightening the visibility of the meetings⁸⁶. Even if an ICM does not yield a final declaration, the publication of minutes or chair's

⁸⁴ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 10.

⁸⁵ European Parliament, 2012 IPC Report, *supra*, note 43, p. 9.

⁸⁶ See e.g. the joint meeting with representatives from human rights committees of the parliaments of the EU Member States, hosted by the DROI Subcommittee in Brussels on 25 June 2008, which not only coincided with the International Day against Torture and was held in the presence of the then UN Special Rapporteur on Torture, Manfred Nowak, but also resulted in the adoption of a 'Declaration on the fight against torture as a key priority for the EU' (see *infra*, section 3.3.).

conclusions may enhance its policy impact. Respondents noted that the follow-up of ICMs in that sense often leaves to be desired.

While the multiplication of ICMs since the entry into force of the Lisbon Treaty has been positively noted at the European level, demonstrating the progress of IPC, national parliamentarians, and officials also pointed to the increasing burden on already busy schedules and tight budgets at home. Potential overlap with regular meetings of standing IPC bodies, travel restrictions, and full timetables force many national parliamentarians to strictly weigh up the added value of participation in a particular ICM before deciding to attend. In this context, the European Parliamentary Week was mentioned as a welcome initiative by national respondents. Organised for the first time in January 2013 as the 'Parliamentary Week of the European Semester', it combined a number of events, including meetings of political groups, ICMs of the Committees on Budget, Economic and Monetary Affairs, and Employment and Social Affairs, as well as plenary sessions with high-level speakers⁸⁷. The condensed schedule of a series of relevant meetings could alleviate efficiency concerns and could – if it were to turn into an annual event – develop into a priority feature in the timetables of national and European parliamentarians alike.

In comparison to the abovementioned JCMs, the unilateral organisation of the ICMs provides an advantage in terms of flexibility and efficiency⁸⁸. Nevertheless the Steering Group's 2010/2011 IPC report mentions concerns among committee members of the EP that ICMs were also too time-consuming and cumbersome to organise, which would 'impair their timeliness and relevance and reduce enthusiasm for them'⁸⁹. The trend may therefore point towards the emergence of even smaller scale meetings, e.g. between the chairpersons and rapporteurs of sectoral committees⁹⁰.

Finally, one of the most frequently chosen formats of IPC is the **bilateral dialogue between the EP and national parliaments**, notably through visits of committee delegations. The 2012 IPC Report listed a total of 43 bilateral visits with an overall participation of 125 MEPs, 208 MPs, and 190 staff members⁹¹. Well established is the bilateral contact between the EP and the parliament of the upcoming Council Presidency for information exchange and clarification of national positions⁹². Bilateral visits enjoy particular popularity among committees of the EP because the comparatively smaller scale requires less planning and allows for more thorough discussions⁹³. They are therefore likely to develop into a preferred channel of IPC.

2.4 Informal and Emerging Channels of Inter-Parliamentary Cooperation

In addition to these standing and *ad hoc* modes of IPC, cooperation also takes place in more informal settings, most importantly at the party level. Research suggests that many parliamentarians consider the intraparty links between MPs and MEPs as the principal avenue for information exchange and coordination⁹⁴. National parliamentarians maintain close contact with MEPs to gather information about proposed EU legislation and to mobilise them as advocates of their respective political

⁸⁷ For background information see www.europarl.europa.eu/webnp/cms/pid/1796, accessed 19.11.2013.

⁸⁸ See *supra*, this section.

⁸⁹ European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 11.

⁹⁰ See *infra*, section 2.4.

⁹¹ European Parliament, 2012 IPC Report, *supra*, note 43, p. 10.

⁹² European Parliament, 2010/2011 IPC Report, *supra*, note 47, p. 12.

⁹³ European Parliament, 2010/2011 IPC Report, *supra*, pp. 12 ff.

⁹⁴ See Eric Miklin, 'Inter-Parliamentary Cooperation in EU Affairs and the Austrian Parliament: Empowering the Opposition?', *The Journal of Legislative Studies* No 19, 22, 2013, p. 31; Raunio, *supra*, note 18, p. 324.

positions⁹⁵. Next to that, contacts between MPs and MEPs of likeminded parties are of increasing importance, both for multilateral exchange between sister party groups in national parliaments and the EP, and for bilateral cooperation between the party groups of the EP and a national parliament.

Meetings take place on a periodical or sporadic basis, depending on the party affiliation. For example, parliamentarians of socialist and green parties have started to hold regular meetings alongside COSAC or committee meetings; the EPP party group in the EP periodically invites the heads of the national parties⁹⁶. As a sign that intraparty communication is increasingly viewed as an important avenue for IPC, in the second semester of 2013 the Lithuanian parliament took the initiative to include political group meetings in the official programme, to be held before the formal opening of the COSAC meeting and of each meeting of the two specialised Conferences. Party groups may also convene of their own motion and at more irregular intervals to discuss current topics of particular relevance. It should be noted that parliamentarians belonging to parties not represented in the EP or not integrated into the established party or political group framework, do not have access to this party-based world of IPC⁹⁷. For weighing in on EU issues, they then rely on other channels of cooperation and information.

Complementing the intra- and interparty links of their respective groups, many parliamentarians also maintain and develop – notably through their participation to the bodies and meetings above – a close personal network of contacts with MPs and MEPs, allowing for information exchange and coordination through informal one-on-one meetings.

Reacting to the changing needs of IPC and reflecting the trend towards cooperation on a sectoral rather than on an overarching plenary level, new forms of IPC may emerge, for example a periodic exchange between chairpersons and rapporteurs of sectoral committees, as suggested by the Steering Group on National Parliaments⁹⁸. The success of the new fora will depend on their ability to satisfy the need for topicality, flexibility and slim organisational structures.

2.5 Technical and Documentary Support for IPC: Tools

IPC takes place in a complex web of bodies and fora with various configurations and purposes. In order to assist EU parliaments in exchanging information, IPEX, a platform for electronic exchange of information on all EU-related parliamentary activities⁹⁹, was created based on recommendations and agreements by the EU Speakers Conference in 2000 and 2004¹⁰⁰. It features, among others, a documents database, a calendar of IPC events, an information section on the Speakers' Conference, the IPC Conference on CFSP/CSDP, the IPC Conference on EFG (with meeting documents), a news section covering debates of European topics in national parliaments, and keyword protected forums for information exchange.

IPEX has the potential to develop into a very effective tool for IPC. Currently, however, the majority of the information shared on it is related to the 'early warning' reasoned opinions and contributions. Also, not all documents having regard to IPC are available on IPEX; for example the platform does not provide access to the COSAC bi-annual reports conclusions and contributions or agendas and/or minutes (when available) of JMCs, JPMs, or ICMs, which remain scattered across a range of external websites. The

⁹⁵ See Jančić, *supra*, note 11.

⁹⁶ Miklin, *supra*, note 94, p. 31.

⁹⁷ Miklin, *supra*, pp. 31 ff.

⁹⁸ Steering Group on National Parliaments, Recommendations to the Conference of Presidents, 2010, p. 4.

⁹⁹ See www.ipex.eu accessed 19.11.2013.

¹⁰⁰ See www.europarl.europa.eu/webnp/cms/pid/1879, accessed 19.11.2013.

fragmentation of IPC bodies and events is therefore still partially reflected in the system of document exchange.

Next to that, the European Centre for Parliamentary Research and Documentation ('ECPRD') plays an important role for IPC. It was established in June 1977, following a request of the Speakers' Conference¹⁰¹ and counts among its members the EP, the Parliamentary Assembly of the Council of Europe ('CoE'), and the national parliaments of the EU and the CoE. The ECPRD facilitates information exchange between parliaments by providing a central contact point for comparative requests by its members, disseminating studies and hosting seminars.

2.6 Evaluation and Preliminary Findings

In conclusion, it appears that the 'climate of mutual trust'¹⁰² has given way to a more pronounced distinction between the spheres of governance of the EP and the national parliaments, in which IPC has a distinct bridging role to play, amidst concerns regarding the EU's alleged democratic deficit. The recent evolutions, confirmed by the Lisbon Treaty, have given rise to a plethora of IPC fora which are still far from forming a consistent framework: *Ad hoc* initiatives overlap with permanent bodies, a trend towards specialisation competes with generalist agendas, and finally, the roles and purposes of IPC, between scrutiny and input, remain largely unclear¹⁰³.

When assessing the role of IPC and the significance it bears for parliamentarians themselves, many respondents agreed that it mainly serves the purpose of exchanging information and sharing best practices. Although 'coalition building' and 'the development of a European conscience' were named among the objectives, respondents generally tended to be sceptical about the real bite of IPC in enhancing parliamentary input vis-à-vis European policies and subjecting these to parliamentary scrutiny. Most answers echoed the sentiment that, even though having 'an additional layer of scrutiny couldn't hurt' the EU institutions or national parliaments, IPC is above all a 'forum of exchange of information rather than an influential policy-making body'. Especially with regard to parliamentary monitoring of the principles of subsidiarity and proportionality, one respondent noted that national parliamentarians tend to 'designate 5 to 10 legislative proposals which are believed to be of importance for the subsidiarity check, without there being the intention to necessarily adopt a reasoned opinion on each proposal. Rather, the EWM and the yellow card are political assessments which give us a free hand in doing our work as politicians'.

Drawing on the interviews conducted for this study, the success of IPC appears to hinge to a large extent on the motivation of parliamentarians to participate in the meetings, which in turn depends on the outcome of a cost-benefit analysis made by any potential participant as to whether or not his or her interaction and cooperation with other parliamentary bodies will generate added value to his or her political work.

The benefit of IPC can be particularly high for those MPs who are either members of a minority party group in their national assembly, or part of a majority party group which is not represented in the government. In these cases IPC provides MPs with independent access to reliable information, without intermediation of the national government¹⁰⁴. While this information is perceived to have only weak

¹⁰¹ For an overview of its history see ECPRD, 'ECPRD 30 Years 1977-2007: A summary of major events and achievements of the European Centre for Parliamentary Research and Documentation', 2007, <https://ecprd.secure.europarl.europa.eu/ecprd/getfile.do?id=33514> accessed 19.11.2013.

¹⁰² Jančić, *supra*, note 11, p. 133.

¹⁰³ Miklin, *supra*, pp. 133 ff.

¹⁰⁴ Miklin, *supra*, note 94, p. 26 f.

impact on the scrutiny of policies carried out at the EU level, it may enable national parliamentarians to effectively scrutinise their national governments and to hold them accountable for policies carried out at the national level. Contrariwise, due to their easier access to relevant information, motivation may be lower for those parliamentarians who belong to a party group which is represented in the government.

Apart from the power constellations in the respective national chambers, the specific format of an IPC forum can significantly increase or impair the motivation of parliamentarians to participate in its meetings. Given that parliamentarians are faced with time constraints, they must thus prioritise those IPC meetings that provide a distinct added value in terms of information exchange or cooperation in order to yield a favourable effort/outcome ratio. The above analysis thereby clearly points to the attractiveness of sectoral, flexible, and smaller scale IPC fora, with concrete and topical agendas, sufficient opportunity for exchange between participants, and tangible output, feeding into legislative debates and possibly enabling participants to scrutinise legislative initiatives in a way traditional parliamentary channels would not have permitted. IPC, on the other hand, will be less successful if parliamentarians find it easier to obtain information from other sources (e.g. the national government, civil society or EU institutions), if input is limited to broad and little operational discussions, or if parliamentarians deem their time to be better invested in 'pressuring their own government than [in] entering the EU level'¹⁰⁵. Motivation can also suffer if there is no sufficient interest homogeneity, i.e. if the topics on the agenda of the respective IPC forum have low priority for the potential participants.

Other important factors for the success of IPC are factual constraints on the participation of national parliamentarians. Participating in IPC meetings generally involves traveling, which is both cost-intensive and time-consuming. Constraints in this regard can thus on the one hand be related to time management and include timetable problems caused by upcoming or recent elections, recesses, and the generally high workload of parliamentarians. Some parliamentarians also face restrictions in their international travels or might experience budgetary constraints. On the other hand, as has been detailed above, the ideological orientation of the party affiliation can significantly impact a parliamentarian's capacity to participate in IPC. Parliamentarians of parties which are well established in the European party families can participate more easily and effectively in IPC because their party affiliation opens up a network of contact points¹⁰⁶. A few respondents also referred to the discrepancies in terms of organisation between the delegations of the EP and of the national assemblies, which hamper smooth cooperation: Whereas the EP aims to ensure a consistent composition of its delegations, the delegations of the national parliaments vary frequently, thereby hindering the identification of contact persons on the part of the other participants and the gathering of expertise on the part of the respective delegate.

Finally, IPC faces a fundamental challenge in the form of the differing perceptions of the role of the EP: 'the European Parliament sees its role as that of the legislative soul and driver of integration, while the national parliaments tend to defend the intergovernmental dimension of the EU, considering the European Parliament an antagonist and possible threat'¹⁰⁷. This perception was reiterated by several respondents and illustrated with examples of a seemingly overpowering EP, which not only initiates and convenes many IPC meetings, but also sets the agenda and impresses through the sheer size and formation of its delegation. Several national respondents pointed out that MPs might feel intimidated by the well-staffed and well-oiled machinery of EP delegations and therefore might consider their own potential input to be marginal – which in turn would deteriorate the effort/outcome ratio of

¹⁰⁵ Miklin, *supra*, p. 27.

¹⁰⁶ Miklin, *supra*, p. 28.

¹⁰⁷ Matarazzo and Leone, *supra*, note 24, p. 140.

participation in IPC. Therefore, although IPC is often regarded as a legitimizing force, seeking to empower parliamentary processes within the EU by providing avenues of cooperation across EPs, national parliaments may at times consider their representative at ministerial level in the Council to be a more obvious and legitimate partner than the EP.

FIGURE 3: SUMMARY OF STRENGTHS AND WEAKNESSES OF IPC CHANNELS AS EXPRESSED BY INTERVIEW RESPONDENTS

	Recurrence	Strengths	Weaknesses	Trend
Conference of the Speakers of the Parliaments of the European Union	Yearly (first semester, organised by parliament of Member State holding the Presidency during the previous semester)	<ul style="list-style-type: none"> Viewed as leader in IPC: designs IPC channels Instrumental in building 'common conscience' through IPC 		Constant
COSAC	Biannually in Member State holding the Presidency	<ul style="list-style-type: none"> Most established IPC body and recognised forum for discussing substantive issues Outputs (biannual report, conclusions, contributions) with policy impact Good opportunity for networking 	<ul style="list-style-type: none"> Size and recurrence: Participant fatigue and organisational challenge Lack of flexibility: Excessive recourse to plenary format Discussions are too general 	In evolution: considering complementing plenary sessions with side-events and breaking down into clusters of interests; organisation of political group meetings
Inter-Parliamentary Conference on CFSP and CSDP	Biannually: in Brussels or in Member State holding the Presidency	<ul style="list-style-type: none"> Responds to concerns about the democratic legitimacy of Union competences in CFSP/CSDP matters Targeted and topical themes: Alternates between plenary and workshop events 	<ul style="list-style-type: none"> Size and organisational challenge Accumulation of large-scale events: participant fatigue 	<i>Ad Hoc</i> Review Committee appointed for evaluation (recommendations due second semester 2014)
Inter-Parliamentary Conference on EFG	Biannually: follows European Semester cycle. First semester at the EP in Brussels; second semester in Member State holding the Presidency	<ul style="list-style-type: none"> Responds to concerns about the democratic legitimacy of Union competences in matters covered by the TSCG 	<ul style="list-style-type: none"> Size and organisational challenge Accumulation of large-scale events: participant fatigue In first meeting: exclusive use of plenary format 	Will be evaluated in 2015
Joint Parliamentary Meetings	Rare (12 meetings between 2007 and 2011) No fixed schedule, but the Steering Group recommended to hold no more than one meeting per semester	<ul style="list-style-type: none"> Broad format allows for raising parliamentary awareness of transversal and overarching topics May reinforce the links between party families 	<ul style="list-style-type: none"> Does not lend itself to yielding tangible results Joint organisation is complex and requires long-term planning 	Decreasing
Joint Committee Meetings	Rare (17 meetings between 2008 and 2013) No fixed schedule, but the Steering Group recommended to hold no more than two meetings	<ul style="list-style-type: none"> Sectoral format allows for exchange between specialists Joint organisation may reduce the 	<ul style="list-style-type: none"> Joint organisation is complex and requires long-term planning 	Decreasing

	per semester	<p>'power divide' between EP and NP</p> <ul style="list-style-type: none"> Joint organisation gives visibility to NP of country holding the Council Presidency and allows for Presidency priorities to be put on the IPC agenda 		
Interparliamentary Committee Meetings	<p>Frequent (64 meetings between 2006 and 2013)</p> <p>No fixed schedule, organised at the initiative of EP committees</p>	<ul style="list-style-type: none"> Sectoral format allows for exchange between specialists Efficient unilateral organisation 	<ul style="list-style-type: none"> EP as unilateral organiser might increase the perceived 'power divide' 	Increasing

3. HUMAN RIGHTS IN EUROPEAN POLICIES AND THE POTENTIAL OF IPC

3.1 Human Rights Challenges and Opportunities in the EU

Human rights are another landmark of the Lisbon Treaty. Human rights have gradually come up in the case-law of the European Court of Justice and are now seen as a central part of it¹⁰⁸, and references to human rights have increasingly appeared at Treaty level since the Maastricht, Amsterdam and Nice Treaties. A designated Agency for Fundamental Rights (FRA) was established to provide both EU institutions and Member States with 'expertise relating to fundamental rights'¹⁰⁹, however, it was not until the Lisbon Treaty entered into force that the EU reached 'the high point of its engagement with human rights'¹¹⁰, making 'the protection and promotion of human rights [...] a silver thread running through all EU action both at home and abroad'¹¹¹. Art. 2 TEU recognises these as foundational values of the EU in holding that '[t]he Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities'. Moreover, the Lisbon Treaty elevated the Charter of Fundamental Rights of the EU to 'the same legal value as the Treaties' and tasked the EU to accede to the European Convention on Human Rights¹¹². Both the EP¹¹³ and the European Council¹¹⁴ have proclaimed the promotion of fundamental rights in the EU to be one of their priorities within the 'area of justice, freedom and security' (AFSJ). The European Commission now has a designated Commissioner alongside a Directorate-General (DG) for Justice, Fundamental Rights and Citizenship¹¹⁵, while the entire College of Commissioners has taken the oath before the Court of Justice 'to respect the Treaty and the Charter of Fundamental Rights of the European Union in the fulfilment of all [...] duties'¹¹⁶. The Court of Justice has been given jurisdiction with regard to the Charter and most EU policy areas (with the exception of

¹⁰⁸ See *inter alia* De Witte, B., 'The Past and Future Role of the European Court of Justice in the Protection of Human Rights', in Philip Alston, Mara Bustelo and James Heenan (eds.), *The EU and Human Rights*, Oxford University Press, Oxford, 1999, p. 859; Jacobs, F., 'Human Rights in the European Union: The Role of the Court of Justice', 26 *European Law Review* 331, 2001; Tizzano, A., 'The Role of the ECJ in the Protection of Fundamental Rights', in Anthony Arnall, Piet Eeckhout and Takis Tridimas (eds.) *Continuity and change in EU law: essays in honour of Sir Francis Jacobs*, Oxford University Press, Oxford, 2008, p. 125.

¹⁰⁹ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, OJ L 53/1, 22.02.2007, art. 2.

¹¹⁰ de Búrca, G., 'The Road not Taken: The European Union as a Global Human Rights Actor', *American Journal of International Law*, No 105, 2011, p. 649.

¹¹¹ *Supra*, note 3.

¹¹² TEU art. 6(1) and (2), respectively.

¹¹³ European Parliament resolution of 25.11.2009 on the Communication from the Commission to the European Parliament and the Council – An area of freedom, security and justice serving the citizen – Stockholm programme, P7_TA(2009)0090, para. 20: 'Recalls that, with the Treaty of Lisbon, the Charter will become binding, on the same footing as the Treaties, and entirely applicable to all measures taken under the AFSJ, and that compliance with the Charter will be monitored by the Court of Justice [...]'.
¹¹⁴ European Council, The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens, OJ C 115/1, 4 May 2010, para. 1.1: Political priorities: Promoting citizenship and fundamental rights: 'Respect for the human person and human dignity and for the other rights set out in the Charter of Fundamental Rights of the European Union and the European Convention for the protection of Human Rights and fundamental freedoms are core values'.

¹¹⁵ Since the entry into force of the Lisbon Treaty, the AFSJ has become an area pertaining to the ordinary legislative procedure. As a result, the former DG for Justice, Freedom and Security was split into DG Justice, Fundamental Rights and Citizenship on the one hand, and DG Home Affairs on the other, on 01.07.2010.

¹¹⁶ European Commission, Strategy for the effective implementation of the Charter of Fundamental Rights by the European Union (COM(2010) 573 final), 19.10.2010, p. 2.

CFSP¹¹⁷) where human rights are to be implemented, including the areas of freedom, security, and justice¹¹⁸. Last but not least, the Lisbon Treaty has confirmed the cross-cutting central place of human rights throughout the whole spectre of the Union's external action. Indeed, in its relations with the wider world, 'the protection of human rights, in particular the rights of the child' and 'the universality and indivisibility of human rights and fundamental freedoms' guide the EU's action on the international scene¹¹⁹. In furtherance of these new commitments, the Council adopted in 2012 a quite detailed and ambitious Strategic Framework and Action Plan on Human Rights and Democracy, which delineates seven strategic principles and objectives (Strategic Framework) and identifies 36 concrete avenues for action (Action Plan) towards which EU institutions and Member States should 'work together' in order to implement the principles and objectives (see Figure 4 below)¹²⁰. Moreover, the first Special Representative for Human Rights was appointed whose mandate is 'based on the policy objectives of the Union regarding human rights as set out in the Treaty, the Charter of Fundamental Rights of the European Union, as well as the EU Strategic Framework [and] Action Plan on Human Rights and Democracy'¹²¹.

However, these innovations have not come without their challenges. First of all, human rights are a varying reality within EU Member States, as some recent debates have highlighted. In recent years, concrete examples of this varying reality have attracted much criticism¹²², and prompted the EP to express its concerns in a Resolution about 'not only the credibility of the Member States and of the EU on the international scene, but also the Union's objectives in its external action, [which] would be undermined if Member States were not able or willing to live up to the standards to which they have agreed and bound themselves by signing the Treaties'¹²³. In a similar vein, the most recent annual Report on the Application of the Charter of Fundamental Rights also evidenced that although 'the take up of the Charter by national courts when EU law is involved can be seen as a positive sign', significant challenges still remain¹²⁴. Second, even if the EU is committed to mainstreaming human rights in all its policies, implementation is often in the hands of Member States. Taking into account the fragmentation and different paces at which Member States implement policies, this may undermine efforts to arrive at a coherent EU human rights policy. Third, promoting human rights externally raises not only the challenge of consistency, requiring the EU and all Member States to speak with one voice in their external relations, but also the challenge of coherence either because human rights promoted externally are not implemented internally, owing in part to the separate logics between 'internal' fundamental rights in the EU and 'external' human rights outside the EU, or because human rights are not promoted in the same fashion across different policies (such as trade, development, investment, and migration) or toward different partners. Drawing on these concerns, it is felt that the effective implementation of the EU's recent 'human rights momentum' will thus partly depend on the extent to which the EP and national parliaments can coherently collaborate in these matters¹²⁵.

¹¹⁷ See nevertheless art. 24(1), 2nd para., TEU with reference to art. 275, second para., TFEU.

¹¹⁸ See art. 24(1), 2nd para., TEU with reference to art. 275, second para., TFEU.

¹¹⁹ TEU art. 3(5) and 21(1), respectively.

¹²⁰ *Supra*, note 5.

¹²¹ Council Decision 2012/440/CFSP of 25.07.2012 appointing the European Union Special Representative for Human Rights. OJ L 200/21, art. 2.

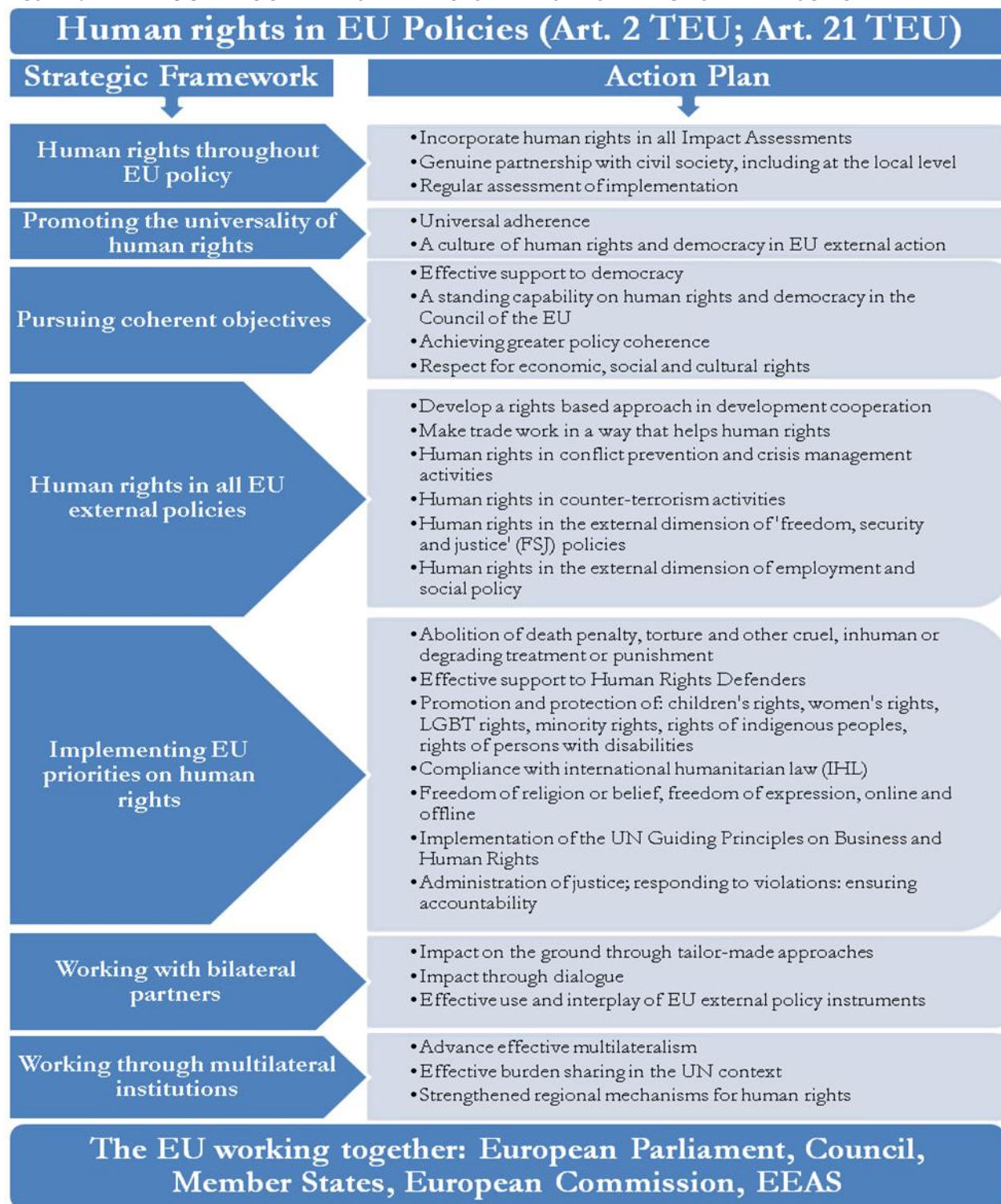
¹²² Tilley, R., 'Normative Europe and Human Rights: a critical analysis', *POLIS Journal* No 7, 2012, p. 450.

¹²³ European Parliament, Resolution of 03.07.2013 on the situation of fundamental rights: standards and practices in Hungary (pursuant to the European Parliament resolution of 16.02.2012) (2012/2130(INI)), para. O.

¹²⁴ European Commission, Directorate-General for Justice, 2012 Report on the Application of the EU Charter of Fundamental Rights, p. 16.

¹²⁵ Intervention by Barbara Lochbihler, 2013 AFET/DROI ICM, 25.09.2013.

FIGURE 4: EU STRATEGIC FRAMEWORK AND ACTION PLAN ON HUMAN RIGHTS AND DEMOCRACY



3.2 European Parliament and National Parliaments as Human Rights Actors

Drawing on their role in promoting human rights and democracy, parliaments are seen as watchdogs of global human rights issues. The frequency with which debates are conducted depend on 'current international events' and 'the [political] will of the parliaments'¹²⁶. The role of the EP as a parliamentary human rights actor has particularly been strengthened by the entry into force of the Lisbon Treaty and the accompanying powers it has endowed the EP with, by doing away with the old pillar structure which had been in place since the Treaty of Maastricht¹²⁷ and by bringing human rights-related policy areas under the ordinary legislative procedure, in particular the aforementioned area of justice, freedom, and security¹²⁸. Most notably, the EP can now exercise political control and advise other EU institutions on an extended range of human rights-related matters. Likewise, the EP has also gained considerable powers in controlling EU external actions, including in the realm of its Common Commercial Policy ('CCP'), in view of external human rights policies after Lisbon. For example, the EP has to give its consent to a wide range of international agreements potentially having implications for human rights, such as trade and investment agreements. Moreover, the EP controls the budget of the EU's thematic external relations instruments, including the European Instrument for Democracy and Human Rights (EIDHR). At the same time, the EP has been able to extend its scrutiny over the HR/VP and the EEAS in the course of the implementation of the Lisbon Treaty¹²⁹, by asking questions and making recommendations, by having its opinion taken into consideration, and by engaging in a periodical debate with the HR/VP¹³⁰.

These powers could potentially translate into a strong human rights policy as human rights issues already play a central role in the work of the EP and are frequently dealt with in plenary sessions, parliamentary resolutions, as well as in statements and meetings of its President. At the EP committee level, however, Lisbon's complex constitutional architecture is reflected in the distinction which is made between the internal and the external dimension of human rights. While the former falls within the field of competence of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) as it concerns matters of fundamental rights, the latter is situated mainly within the scope of the Subcommittee on Human Rights (DROI), which is not a fully-fledged committee with its neatly delineated competences and resources to carry out human rights-related policies, but remains subordinate to the Foreign Affairs Committee (AFET). This organisational fragmentation has been criticised by one of the respondents as hampering an efficient targeting of internal-external consistency questions, while there is to this day no single committee that would be able to address human rights violations both within and outside the EU. Therefore, the suggestion was made to upgrade DROI to a full-fledged committee which could then enter into synergies with LIBE to deal with issues relating to both human and fundamental rights. However, this solution does not seem to garner much political support for the moment. In this connection, a different point of view was expressed by another respondent, namely that secluding human rights within one autonomous committee would simply contribute to a 'ghettoisation' of human rights issues, the latter only being discussed by 'experts talking to themselves with no wider audience'. On the contrary, the respondent was of the opinion that cross-cutting as they are, human

¹²⁶ COSAC, Eleventh Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, May 2009, pp.16.

¹²⁷ See Pernice, *supra*, note 12.

¹²⁸ An overview of decision-making procedures under the Lisbon Treaty is available at http://ec.europa.eu/codecision/docs/Legal_bases/, accessed 29.11.2013.

¹²⁹ Raube, K., 'The European External Action Service and the European Parliament', *The Hague Journal of Diplomacy* No 7, 2012, p. 65.

¹³⁰ Wouters and Raube, *supra*, note 57, p. 152.

rights issues should continue to be mainstreamed into the work of standing EP committees, most notably AFET, INTA, DEVE, FEMM, AFCD and JURI¹³¹. The human rights-related work of the EP in its external relations indeed covers a broad variety of issues, ranging from democracy support and election observation, to trade issues, labor rights, freedom of thought, and discrimination¹³². In this regard, one should mention the internal 'Task Force on EU Human Rights Policy', which gathers a number of representatives from various EP bodies¹³³. The Task Force was established in 2011 in recognition of the cross-cutting nature of human rights. Its objectives are to maximise synergies between EP activities in human rights protection; mainstream human rights within the General Secretariat; promote information exchange on human rights-related activities and issues across the bodies represented; and generally raise the profile of human rights activities inside and outside the EP. The Task Force meets about four times a year (though this may vary), and has been described by a respondent as useful for sharing information about future human rights-related activities in different committees, and therefore prevent potential overlaps. It moreover contributed to create a network of EP officials active in human rights, who now regularly act and interact towards the goals stated above. However, the Task Force is not generally used proactively as a channel to organise joint (IPC) events, which may be considered in order to more effectively reach its stated objective to mainstream and raise the profile of human rights within and outside the EU.

National parliaments can be labelled 'guarantors of human rights' due to their position as the closest representatives of the Member State citizens and to their unique power to establish a legislative framework favourable for human rights, to assent to international human rights treaties and ensure their implementation, to safeguard appropriate funding for human rights policies through their budgetary power, to scrutinise the government, and to raise awareness for human rights issues¹³⁴. Mirroring the institutional fragmentation in the aforementioned EP committees dealing with human rights, national parliaments also very much differ in their own institutional set-up. In a number of countries, human rights are mainstreamed into the work of all committees, reflecting the cross-cutting nature of the issue. In these cases, committees on justice, constitutional affairs and legal affairs are mostly involved with regard to the internal dimension of human rights, whereas committees for foreign affairs deal with the external aspects of human rights promotion (Belgium, Denmark, Estonia, Finland, Luxembourg, Malta, the Netherlands, Spain, and Sweden). A large number of parliaments have, however, established special human rights committees or subcommittees (Austria, Bulgaria, Croatia, Cyprus, the Czech Republic, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovakia, Slovenia, and the United Kingdom)¹³⁵. It has been suggested that this latter

¹³¹ Council of the European Union, EU Annual Report on Human Rights and Democracy in the World in 2012 (9431/13), 1305.2013, p. 146.

¹³² Council of the European Union, EU Annual Report on Human Rights and Democracy in the World in 2012 (9431/13), pp. 145 ff.

¹³³ The task force is chaired by the Head of Human Rights Unit of DG EXPO and composed of one representative from the President's Office; the Secretary-General's Office; the AFET Committee; the DEVE Committee; the INTA Committee; the LIBE Committee; the FEMM Committee; the Legal Service; the Office for Promotion of Parliamentary Democracy (OPPD); the Election Observation Unit; the 'delegation' units in Directorate 'B' of DG EXPO; and from DG COMM. It is also composed of two representatives from Policy Departments (DG EXPO and DG IPOL).

¹³⁴ Parliamentary Assembly of the Council of Europe, Committee on Legal Affairs and Human Rights, 'National parliaments: guarantors of human rights in Europe' (Doc. 12636) 06.06.2011, p. 6.

¹³⁵ See Inter-Parliamentary Union ('IPU') PARLINE database on national parliaments, www.ipu.org/parline/, accessed 21.11.2013. However, a report of the Council of Europe (see *ibid.*, pp. 7 f.) at times reads the specific human rights mandates of specialized parliamentary committees differently from the IPU databases. As a result, limited discrepancies may occur.

approach is more advantageous to human rights protection: specialised committees bundle expertise and can assume a leadership role, thus giving direction to national human rights policy¹³⁶.

FIGURE 5: COMMITTEES DEALING WITH HUMAN RIGHTS ISSUES WITHIN NATIONAL PARLIAMENTS

Member State	Lower Chamber	Upper Chamber
Austria	Committee for Human Rights	No designated committee
Belgium	Exterior Relations Committee	No designated committee
	Justice Committee	
Bulgaria	Human Rights, Religion, Citizens' Complaints and Petitions Committee	N/A
	Committee on Human Rights and Religious Affairs	
Croatia	Petitions and Appeals Committee	N/A
	War Veterans Committee	
	Committee on Human Rights and National Minority Rights	
	Human Rights Sub-Committee of the Committee on Human and National Minority Rights	
	National Minority Rights Sub-Committee of the Committee on Human and National Minority Rights	
Cyprus	House Standing Committee on Human Rights	N/A
Czech Republic	Committee for Petitions	Committee on Education, Science, Culture, Human Rights and Petitions
	Committee on Petitions - Sub-Committee on Human Rights	
	Committee on Petitions - Sub-Committee on National Minorities	
Denmark	All Standing Committees	N/A
Estonia	Constitutional Committee	N/A
	Foreign Affairs Committee	
Finland	Constitutional Law Committee	N/A
France	All-party Parliamentary Group of the Human Rights League	Committee on Constitutional Laws, Legislation, Universal Suffrage, Rules and General Administration of the Senate
Germany	Committee on Human Rights and Humanitarian Aid	No designated committee
Greece	Special Permanent Committee on Equality, Youth and Human Rights	N/A
Hungary	Committee on Human Rights, Minorities, Civil and Religious Affairs	N/A
Ireland	Foreign Affairs Sub-Committee on Human Rights	Foreign Affairs Sub-Committee on Human Rights
Italy	Committee on Human Rights ¹³⁷	Committee on Human Rights

¹³⁶ *Supra*, note 134, p. 9.

¹³⁷ No information available on the Inter-Parliamentary Union (IPU) PARLINE database on national parliaments. Information taken from COSAC, Eleventh Bi-annual Report, *supra*, note 126, p. 19.

Latvia	Committee Human Rights and Public Affairs	N/A
Lithuania	Commission on Youth and Sport Affairs	N/A
	Petition Commission	
	Committee on Human Rights	
Luxembourg	Petitions Committee	N/A
	Legal Committee	
Malta	Standing Committee on Social Affairs (referred to as 'gender equality')	N/A
Netherlands	Standing Committee on Justice	No designated committee
Poland	National and Ethnic Minorities Committee	Human Rights, the Rule of Law and Petitions Committee
	Foreign Affairs Committee	
	Justice and Human Rights Committee	
Portugal	Committee for Constitutional Affairs, Rights, Freedoms and Guarantees	N/A
Romania	Committee for Human Rights, Cults and National Minorities Issues	Committee on Human Rights, Cults and Minorities
Slovakia	Committee on Human Rights and Minorities	N/A
Slovenia	Commission for the Supervision of Intelligence and Security Services	No designated committee
	Commission for Relations with Slovenes in Neighbouring and Other Countries	
	Committee on Labour, the Family, Social Policy and the Disabled	
	Commission for National Communities	
	Commission for Petitions, Human Rights and Equal Opportunities	
Spain	Joint Committee on relations with the Ombudsman	Joint Committee on relations with the Ombudsman
Sweden	Committee on Foreign Affairs	N/A
United Kingdom	All-Party Parliamentary Human Rights Group	All-Party Parliamentary Human Rights Group
	Joint Committee on Human Rights	Joint Committee on Human Rights

Source: Inter-Parliamentary Union (IPU) PARLINE database on national parliaments

Given the persisting fragmentation at both the vertical and horizontal level of IPC, it comes as no surprise that respondents from both the EP and national parliaments have expressed the concern that there are no corresponding committees or counterparts in other parliaments, and that these discrepancies severely hamper an efficient and coherent conduct of IPC in the area of human rights. While these structural challenges are not likely to change in the near future, IPC meetings should aim to bring together as many parliamentarians as possible from the national and European level who focus on human rights or human rights-related issues. While parliaments with specialised human rights committees (see above FIGURE 5) can naturally delegate parliamentarians who are members in such committees, parliaments should also delegate those MPs who are working on human rights-related issues in other committees (i.e. foreign affairs, defence, migration, asylum, etc.). A broad scope of parliamentarians focusing on various human rights issues on different levels of EU human rights governance enables IPC to foster information exchanges from 28 Member States and the EU and to

scrutinise the implementation of human rights policies on the national and the EU level. Only by such means will it be possible to arrive at a full picture of human rights policies in the EU to enhance and the EU's vertical, horizontal and external coherence in the field.

However, as indicated above, parliaments are not the only actors committed to human rights promotion. Within the EU, the fragmentation of competences in this field reflects the cross-cutting and multi-faceted nature of human rights, spanning just about every EU institution, agency or body. We have mentioned above, for instance, the competences of the Commission, the Court of Justice, the EU Special Representative for Human Rights, and the Fundamental Rights Agency. If the bottom line of IPC is to exchange information and best practices in order to enhance parliamentary input and scrutiny over EU institutions, notably as they impact human rights, one may then expect IPC actors to engage with their counterparts in other EU bodies and institutions, so as to seek first-hand information. Likewise, this should be reckoned with the fact that other international organisations are very active in the field of human rights, in ways which can complement or reinforce the EU's own human rights agenda. One respondent for example emphasised that, in terms of IPC on human rights issues, the Council of Europe's Parliamentary Assembly was generally regarded as the most authoritative forum. The United Nations (UN) is also a crucial actor in human rights promotion worldwide and human rights standard-setting. The ways in which the EU and the UN interact on human rights issues is therefore an aspect of policy in which IPC also has a relevant role to play, congruent with the EU's commitment to 'effective multilateralism' in the framework of the UN¹³⁸. For example, during the September 2013 DROI meeting, several MPs have raised the question of the implementation by the EU of the UN Guiding Principles for Business and Human Rights. Moreover, one should not overlook the significant role of civil society in the field of human rights. Activist non-governmental organizations (NGOs), have long hailed themselves as human rights watchdogs *par excellence*, being independent from government, having a grassroots connection with society at large, and possessing a different array of tools to monitor, report and advocate on human rights. Moreover, NGOs have over time proven to be very effective norm-entrepreneurs, as notably their campaigns have inspired a number of advances in international human rights law¹³⁹. Therefore engagement of national parliaments with civil society actors could widen the spectrum of views available to MPs and thereby enhance the potential of IPC for providing input and exercising scrutiny over EU human rights policies. Finally, on selected items, academic institutions and experts may have significant expertise to share with policy-makers.

3.3 Prominence of Human Rights Issues in IPC

In light of the role of both the EP and national parliaments as human rights actors, IPC can have an obvious added value for human rights for the following reasons. As the closest representatives of Member States' citizens, national parliaments have a direct interest in human rights, notably those of their constituencies, which the EU may affect. Parliamentarians can, in this regard, exchange best practices to emulate each other and to make sure that human rights are implemented at the domestic level. However, as pointed out by several respondents, the practice of discussing individual human rights records is yet to fully materialise. This led one respondent to suggest the development of a

¹³⁸ Treaty on European Union, Article 21 (1), para. 2 and 21 (2) h. See also Martin Ortega (ed.), *The European Union and the United Nations – Partners in Effective Multilateralism*, Institute for Security Studies, Chaillot Paper No 78, June 2005. See also Wouters, J., Hoffmeister, F., and Ruys, T. (eds.), *The United Nations and the European Union: An Ever Stronger Partnership*, T.M.C. Asser Press, The Hague, 2006.

¹³⁹ See e.g. Keck, M. and Sikkink, K., *Activists beyond Borders: Advocacy Networks in International Politics*, Cornell University Press, New York, 1998.

'scoreboard' allowing for comparison of Member States' performances in the field of fundamental rights¹⁴⁰ while enhancing the monitoring role of the Fundamental Rights Agency (FRA)¹⁴¹.

Likewise, national parliamentarians can scrutinise their national governments on their external actions, including in relation to human rights promotion. They can oversee, notably through their particular role in the scrutiny of the CFSP, that human rights are coherently promoted in EU foreign policy, in the sense that national governments' policies are prevented from contradicting EU policies. Thus, through their interactions in IPC at the European level, the legitimacy and quality of EU policy- and law-making may be increased by enabling national parliaments to collectively take up their parliamentary oversight functions and by acting like human rights watchdogs along the EP vis-à-vis the EU institutions¹⁴². While one respondent noted that this ideal might not always be attainable in reality, parliaments can in the first place use IPC to inform, exchange views, and coordinate their views to ensure that human rights are consistently advocated within all external policies – both at the national and the EU level. In this regard, it is essential to keep in mind that the EP is closely following the fundamental rights developments within the EU, especially those that concern the implementation record of the Charter of Fundamental Rights¹⁴³. To this end, the EP is in close contact with the FRA and a number of NGOs in the field in order to scrutinise the efforts undertaken at the European and national level to guarantee and foster fundamental rights amongst EU citizens. Special attention is devoted to questions relating to dignity, liberty, equality and solidarity¹⁴⁴.

The evaluation of past IPC meetings in their various formats shows that, although *external* human rights are a cross-cutting topic of paramount importance which may potentially impact a wide variety of policy areas, they are not necessarily a priority topic for each standing IPC body. In fact, they have only sparsely been the dedicated theme of meetings held by the EU Speakers' Conference and COSAC. Rare examples of external human rights discussions were found in the **EU Speakers' Conference** held in Nicosia on 21-23 April 2013, which addressed the 'Role of EU national parliaments and the European Parliament in enhancing democracy and human rights in third countries', emphasizing on the Mediterranean region, and in the **COSAC** meeting held in Prague on 11-12 May 2009, which discussed the 'Role of the EU in Defending Democracy and Human Rights in the World'.

By contrast, in the case of COSAC, as can be seen from the overview table below, *internal* fundamental rights issues do seem to be a salient topic for debate, and increasingly so: not only has the frequency with which fundamental rights are debated increased, but the issues at stake also seem to have gained more substance as they are progressively linked to the ability of national parliaments to scrutinise EU affairs. Whereas before the entry into force of the Lisbon Treaty these debates appeared to be rather abstract and vague, recent years seem to have spurred discussions about concrete EU (proposed) legislation and policies, such as the 'Monti II proposal' and its impact on fundamental social rights, as well as the Europe 2020 strategy and its flagship programs.

¹⁴⁰ See, as an example of scoreboard allowing this kind of comparison, the recently published 'EU Justice Scoreboard': European Commission, The EU Justice Scoreboard – A tool to promote effective justice and growth (COM(2013)160 final) 27 March 2013.

¹⁴¹ The EP is preparing to call for a further enhancement of powers and competences of the FRA in the field of fundamental rights in the European Union, see: European Parliament, Draft Report on the situation of fundamental rights in the European Union (2012) (2013/2078(INI)), Committee on Civil Liberties, Justice and Home Affairs (Rapporteur: Louis Michel), 18.9.2013. At the time of writing, this Report is still awaiting the committee decision.

¹⁴² See Wouters and Raube, *supra*, note 57.

¹⁴³ European Parliament, Draft Report on the situation of fundamental rights in the European Union, 2012, (2013/2078(INI)), Committee on Civil Liberties, Justice and Home Affairs (Rapporteur: Louis Michel), 18.9.2013.

¹⁴⁴ European Parliament, Draft Report on the situation of fundamental rights in the European Union (Rapporteur: Louis Michel).

FIGURE 6: OVERVIEW OF THE PROMINENCE OF HUMAN AND FUNDAMENTAL RIGHTS IN COSAC MEETINGS (2009-2013)

COSAC Meeting	Fundamental rights-related issues discussed
	Human rights-related issues discussed
October 2013 (Vilnius) ¹⁴⁵	EU elections and parliamentary democracy: right to vote and right to stand as a candidate in elections. Europe 2020 strategy: tension between market freedoms and fundamental social rights ('social impacts of austerity measures').
June 2013 (Dublin) ¹⁴⁶	Monti II proposal ¹⁴⁷ and impact on fundamental social rights: right to take collective action within the context of the freedom of establishment and the freedom to provide services.
September 2012 (Nicosia) ¹⁴⁸	Monti II proposal and impact on fundamental social rights: right to take collective action within the context of the freedom of establishment and the freedom to provide services.
April 2012 (Copenhagen) ¹⁴⁹	Monti II proposal and impact on fundamental social rights: right to take collective action within the context of the freedom of establishment and the freedom to provide services. EP resolution ¹⁵⁰ : freedom of movement and labour mobility, including obstacles encountered by mobile workers, their pension rights and the recognition of their professional qualifications.
October 2011 (Warsaw) ¹⁵¹	Europe 2020 strategy: tension between market freedoms and fundamental social rights ('striking the right balance between efficiency and solidarity').
May 2011 (Budapest) ¹⁵²	Europe 2020 strategy: 'Digital Single Market' (online security and data protection); 'European Platform against Poverty' (social inclusion, decent work, workers' rights, labour standards, equality and non-discrimination).
October 2010 (Brussels) ¹⁵³	Europe 2020 strategy: tension between market freedoms and fundamental social rights ('social and environmental consequences, as well as respect for human rights').
May 2010 (Madrid) ¹⁵⁴	EU proposals suggested for future COSAC discussion: European Citizenship Initiative, consumer rights, Europol, Eurojust and the recognition and enforcement of judgments in civil and commercial matters.

¹⁴⁵ COSAC, Twentieth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, October 2013, and annex.

¹⁴⁶ COSAC, Nineteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, May 2013, and annex.

¹⁴⁷ European Commission, Proposal for a Council Regulation on the exercise of the right to take collective action within the context of the freedom of establishment and the freedom to provide services (COM(2012)130 final), 21.03.2012.

¹⁴⁸ COSAC, Eighteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, September 2012, and annex.

¹⁴⁹ COSAC, Seventeenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, April 2012, and annex.

¹⁵⁰ European Parliament, Resolution of 06.04.2011 on a Single Market for Europeans (P7_TA(2011)0145), 06.04.2011.2010/2278(INI).

¹⁵¹ COSAC, Sixteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, October 2011, and annex.

¹⁵² COSAC, Fifteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, May 2011, and annex.

¹⁵³ COSAC, Fourteenth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, October 2010, and annex.

¹⁵⁴ COSAC, Thirteenth Bi-annual Report, *supra*, note 48, and annex.

October 2009 (Stockholm) ¹⁵⁵	Parliamentary scrutiny of the Stockholm Programme on justice, freedom and security: involvement of specialised human rights committees in the scrutiny process
May 2009 (Prague) ¹⁵⁶	Role of the EU in defending democracy and human rights in the world: the EU Annual Report on Human Rights, human rights clauses in agreements with third countries, and 'local ownership' in development cooperation.

Human rights are an obvious topic in relation to the scrutiny of the CFSP and the CSDP, as they are both principles, values and objects of EU external action. Not surprisingly, the **Inter-Parliamentary Conference on CFSP/CSDP** (see section 2.3 *supra*) has dealt with human rights on a number of occasions and has thus proved to be a forum for IPC through which the EU's human rights policies have been scrutinised and contributed to. Even though at its first meeting in Cyprus in September 2012, the Inter-Parliamentary Conference on CFSP/CSDP was still mainly concerned with its own rules of procedure, it nonetheless paved the way for a first dialogue between the EP, national parliaments, and HR/VP Catherine Ashton about the effective implementation of the Strategic Framework on Human Rights, which had been adopted only a few months earlier¹⁵⁷. Reconvening one year later under the Lithuanian Chair, subsequently, the Inter-Parliamentary Conference on CFSP/CSDP clearly adopted a strong human rights discourse in its conclusions¹⁵⁸. The dialogues with the HR/VP and the conclusions of the subsequent Conference meetings illustrate the forum's concern with human rights in detail. As an example, the intervention of Cypriot Parliamentarian Aristos Damianos at the first meeting of the Conference illustrates the relevance of a coherent EU human rights policy and its coverage by the Conference:

The importance of the Strategic Framework, but also of the creation of the position of the Special Representative for these issues, which will contribute to the cohesion of the relevant policies of the Union, is in the fact that the violation of human rights and democracy, including the persecution of people fighting for these values, is observed to a greater or lesser extent in many states around the world. In these states are also included partner states but also candidate states for accession, with whom the European Union keeps close ties. [...] In order for the policy of the European Union on human rights to be substantial, but also so that the Union be a widely accepted international defender of human rights and democracy, we must terminate the policy of inconsistency which has often been adopted and caused many problems in the past, as you have also noted, Madam High Representative. In what way, do you believe, the avoidance of such policies could be ensured, so that the legitimacy of the Union is not endangered?¹⁵⁹

This statement highlights the awareness and recognition of the necessity of a Strategic Framework, including its application, by the national parliaments. At the same time, the HR/VP and parliaments have continued to address human rights issues in the subsequent conferences in Dublin and Vilnius in 2013. For example, the HR/VP addressed at the Vilnius IPC in September 2013 the question of human rights in the Eastern Partnership:

¹⁵⁵ COSAC, Twelfth Bi-annual Report: Developments in European Union Procedures and Practices Relevant to Parliamentary Scrutiny, October 2009, and annex.

¹⁵⁶ COSAC, Eleventh Bi-annual Report, *supra*, note 126, and annex.

¹⁵⁷ First Meeting of the Inter-parliamentary Conference on Common Foreign Policy and Security Policy and on Common Security and Defence Policy. Second Part: Current developments in the area of CFSP and CSDP – Military and non-military operations of the EU, Exchange of opinions with the High Representative for CFSP issues, Baroness Catherine Ashton, Paphos, 9-10.09.2012.

¹⁵⁸ Conclusions of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, 4–6.09.2013, Vilnius.

¹⁵⁹ Intervention by Mr. Aristos Damianos, M.P., Member of the Cyprus Delegation, see *supra*, note 157, p. 1.

My final word is on the next time that I will be in Vilnius when we will be hosting the Eastern Partnership Summit here. [...] We know that the lead-up to Vilnius is going to be difficult.[...] We have to ensure that our partners – perhaps particularly Ukraine – show that they can deliver on their commitments to reform. But we also have to recognise that they face immense external pressure. If we succeed, the Association Agreements, with the Deep and Comprehensive Free Trade Areas, will give our partners a framework they need for sustained transformation, in the rule of law, democracy, human rights and much better access to the biggest market in the world and the best standards that they can possibly have to modernise their countries¹⁶⁰.

The conclusions of the Vilnius Conference focused on the role of human rights within the newly developed 'Comprehensive approach of the EU', thereby underlining the role of the HR/VP and her efforts in the implementation of the Strategic Framework and Action Plan¹⁶¹. Moreover, the Inter-Parliamentary Conference on CFSP/CSDP acknowledged the work of the EU Special Representative for Human Rights and was of the opinion he 'has enhanced the effectiveness and visibility of the EU's human rights policy' and further supported 'a more active engagement of civil society in defending human rights abroad and in the EU's external relations more generally'¹⁶². In addition, the Conference concluded that it was 'looking forward to the accession of the EU to the European Convention on Human Rights and enhanced cooperation with the Council of Europe.'¹⁶³ Last but not least, the conclusions highlighted that 'strategic partnerships must be based upon a common vision, not least a commitment to democracy and human rights, and should be reviewed regularly including through parliamentary cooperation.'¹⁶⁴

When analysing the precise content and scope of these issues, it goes without saying that Conference Chairs have a tendency to address particular external action challenges and their related human rights issues in the context of their very own regional attachment. In the case of both the Cypriot Chair (September 2012) and the Lithuanian Chair (September 2013), the Arab Spring, the Southern Neighbourhood as well as the Eastern Neighbourhood were brought to the forefront. At the Dublin Conference (March 2013), the concentration was rather on the thematic 'Comprehensive approach to instability in the horn of Africa', the human rights situation in Russia, and the broader EU objectives concerning the 'Middle Eastern Peace Process'¹⁶⁵. Despite different regional and thematic prioritization, however, human rights have become one key element of attention. Taken together, the development of the Inter-Parliamentary Conference on CFSP/CSDP may thus provide a viable channel for inter-parliamentary exchanges and the identification of human rights challenges by the EP and national parliaments. However, while the Inter-Parliamentary Conference on CFSP/CSDP is concerned with human rights outside the EU, it will be difficult to address inconsistencies regarding human rights between action outside and action inside the EU (see also *infra*, next section). Moreover, in order to link national and European human rights discourses in the context of CFSP/CSDP, additional structured

¹⁶⁰ European Union, Remarks by EU High Representative Catherine Ashton to the Interparliamentary Conference (IPC), Vilnius, 05.09.2013 (A 443/13) 06.09.2013, p. 5.

¹⁶¹ Conclusions of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, 04–06.09.2013, Vilnius, para. 9.

¹⁶² Conclusions of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, para. 9.

¹⁶³ Conclusions of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, para. 9.

¹⁶⁴ Conclusions of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, para. 10.

¹⁶⁵ Conclusions of the Inter-Parliamentary Conference for the Common Foreign and Security Policy and the Common Security and Defence Policy, Dublin 24–25.03.2013, para. 7.

action may be envisaged within the Conference. In an attempt to bridge the work of both levels, reports and/or resolutions on specific human rights issues could be issued. The reports/resolutions could be co-authored by MPs and MEPs, then disseminated and discussed in subsequent IPC fora. Experiences from the Eastern Partnership's Inter-Parliamentary Assembly, 'Euronest'¹⁶⁶, show that such co-authored efforts do not only bring together the views of the EP and the national parliaments, they also strengthen ownership amongst parliamentarians who are involved in IPC.

External human rights issues have also been on the agenda of a number of ***ad hoc* IPC meetings**. In 2007, the chairpersons of the human rights committees of the EP and national parliaments adopted the 'Berlin Declaration on the Creation of a Parliamentary Human Rights Network in the European Union' in order to facilitate information exchange and cooperation and to thereby strengthen human rights policy in the EU¹⁶⁷. As a first step, the chairpersons committed to exchange information on the composition, mission and priorities of their respective committees, in order to 'ensure that human rights are taken visibly into account in all policy areas'¹⁶⁸. Although the objective to 'create a parliamentary network concerning EU human rights policy'¹⁶⁹ has not yet come to fruition, the Declaration has nevertheless been a confirmation of the importance of IPC in this area as it laid the foundations for subsequent meetings between 2008 and 2013. Accordingly, an Inter-Parliamentary Committee meeting was convened by the EP's DROI subcommittee a year later in June 2008, in order to 'focus on the Union's strategy to tackle human rights issues and [...] look at ways in which the European Parliament and national parliaments can build up a network of mutually supporting activities for the exchange of information and cooperation'¹⁷⁰. The meeting took the commemoration of the International Day against Torture as an occasion to place emphasis on the relevant EU guidelines and thus to give a certain thematic focus to the meeting. The meeting concluded with the adoption of a 'Declaration on the fight against torture as a key priority for the EU' in which the parliamentarians deplored the limited number of ratifications of the Optional Protocol to the Convention against Torture by EU Member States, and urged the EU and its Member States to ensure full coherence between internal and external policies, particularly in the areas of terrorism and illegal immigration.

Due to the momentum of the upcoming Lisbon Treaty and its new provisions on the role of national parliaments, interest in IPC was strong and resulted in a high participation rate with registered representatives of 18 chambers from 15 EU Member States. The adoption of the Declaration provided a tangible end result of the conference thus increasing its visibility. For some respondents, the meeting thus constituted a fitting example of 'best practice'. Next to the initial meetings mentioned above, the DROI subcommittee kept hosting Inter-Parliamentary Committee Meetings from 2007 onwards. While meetings in 2008 and 2011 focused on specific human rights topics, such as the fight against torture and human rights conditionality and development aid, the 2013 session shows a broadened spectrum of topics (see table below).

¹⁶⁶ See for an elaborate analysis of Euronest: Hrant Kostanyan and Bruno Vandecasteele, *The EuroNest Parliamentary Assembly: The European Parliament as a Socializer of its Counterparts in the EU's Eastern Neighbourhood?*, College of Europe, EU Diplomacy Paper No 5/2013.

¹⁶⁷ European Parliament, Subcommittee on Human Rights, *Berlin Declaration on the creation of a parliamentary human rights network in the European Union* (28.04.2008) www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/720/720974/720974en.pdf, accessed 28.11.2013.

¹⁶⁸ European Parliament, Subcommittee on Human Rights, *Berlin Declaration on the creation of a parliamentary human rights network in the European Union*, accessed 28.11.2013.

¹⁶⁹ European Parliament, Subcommittee on Human Rights, *Berlin Declaration on the creation of a parliamentary human rights network in the European Union*, accessed 28.11.2013.

¹⁷⁰ Flautre, H., *Invitation Letter for the 2008 AFET/DROI ICM*, www.ft.dk/samling/20072/almindel/uru/bilag/132/559919.pdf, accessed 28.11.2013.

FIGURE 7: INTER-PARLIAMENTARY COMMITTEE MEETINGS WITH NATIONAL PARLIAMENTS (2007-2013)

IPC Meeting	14/15 June 2007 (Berlin)	25/26 June 2008 (Brussels)	11 October 2011 (Brussels)	25 September 2013 (Brussels)
Human Rights topics tackled	Visibility human rights in all EU policy areas	Prevention and eradication of torture and all forms of ill-treatment within the EU and worldwide Rehabilitation assistance for victims of torture	Human rights conditionality in development and poverty eradication Smart/targeted sanctions: effectiveness development cooperation vs. inalienable obligation to promote HR	Internal and external coherence of HR Accountability of EU policies in HR at national and EU level Synergies between EP, national parliaments and civil society: cooperation and parliamentary scrutiny External dimension of freedom, security and justice policies
Outcome	Berlin Declaration on the creation of a parliamentary human rights network in the European Union Creation of a parliamentary network concerning EU human rights policy to exchange information, cooperate and improve effectiveness HR throughout EU	Declaration on the fight against torture as a key priority for the EU	Debate about the role of national and European Parliament in establishing and monitoring human rights conditionality	
Estimated attendance ratio of national parliament representatives ¹⁷¹	No information available	15/27 Member States (55.55%)	12/27 Member States (44.44%)	12/28 Member States (42.85%)
Estimated attendance rate of European Parliament representatives ¹⁷²	No information available	No information available	37	33

The 2013 inter-parliamentary meeting, hosted by DROI in collaboration with AFET, focused on a broad range of topics in comparison with the previous meetings. According to one respondent, this was a deliberate choice given the new developments in the EU, especially with regard to the new 'EU Strategic Framework and Action Plan on Human Rights.' 'The implementation of the EU Strategic Framework and Action Plan on Human Rights and Democracy' is in fact not only subject to the inter-

¹⁷¹ Based on the official participation lists as published by the EP's Directorate-General on Relations with National Parliaments. See figure 8 below.

¹⁷² Based on the reporting minutes pertaining to the Inter-parliamentary Committee Meetings with National Parliaments, respectively DEVE_PV(2011)1010_1 and DROI_PV(2013)0918_1. Please note that no public information is available on the attendance rates of EP representatives in the 2007 and 2008 IPC meetings.

parliamentary debate, it can also be taken as a framework for discussions on human rights in the future. Hence, while the topic 'The implementation of the EU Strategic Framework and Action Plan on Human Rights and Democracy' seemed broad at the outset, it is important to point to the fact that, for example, the Action Plan on Human Rights contains some 36 objectives with specific time frames and responsibilities for the Commission, the Council, the EEAS and the Member States (see Figure 4 above). Taking the EU Strategic Framework and Action Plan as a framework for discussions on human rights would enable the EP and national parliaments to focus on specific objectives once the deliverables of the key human rights actors are due. As such, collaboration between Member States, parliaments and the EP can follow clear guidelines and common objectives, which are already indicated in the framework and action plan. Indeed, parliamentary involvement was explicitly brought to the fore when the EP called on the active participation of national parliaments in ensuring an effective and coherent human rights policy and stated that 'it is [...] vital for national parliaments to connect with the policy debate and policy-making in Brussels, not only by scrutinizing and influencing the respective national government's positions but also following the activities and initiatives launched at EU-level in Brussels. As policy-making and implementation is undertaken both at national and EU level, parliamentary scrutiny should also focus on national governments' actions, policy and initiatives as well as the "Brussels process"' ¹⁷³.

FIGURE 8: PARTICIPATION OF NATIONAL POLITICAL DELEGATIONS IN HUMAN RIGHTS-RELATED INTER-PARLIAMENTARY COMMITTEE MEETINGS

Member State	25/26 June 2008 (Brussels)	11 October 2011 (Brussels)	25 September 2013 (Brussels)
Austria	Present	Present	Absent
Belgium	Absent	Present	Present
Bulgaria	Present	Present	Present
Croatia	N/A	N/A	Present
Cyprus	Present	Present	Absent
Czech Republic	Absent	Present	Absent
Denmark	Present	Absent	Absent
Estonia	Absent	Absent	Absent
Finland	Present	Absent	Absent
France	Absent	Absent	Absent
Germany	Absent	Present	Absent
Greece	Present	Absent	Present
Hungary	Absent	Present	Present
Ireland	Present	Absent	Absent
Italy	Present	Present	Present
Latvia	Present	Absent	Present
Lithuania	Present	Present	Absent
Luxembourg	Absent	Absent	Absent

¹⁷³ European Parliament, Subcommittee on Human Rights, Interparliamentary Committee Meeting with National Parliaments, 25.09.2013, Background Note Session one: EU Strategic Framework and Action Plan on Human Rights and Democracy, p. 2, available at www.europarl.europa.eu/webnp/cms/pid/1950, accessed 29.11.2013.

Malta	Absent	Present	Present
Netherlands	Absent	Absent	Absent
Poland	Present	Absent	Present
Portugal	Present	Present	Absent
Romania	Present	Present	Present
Slovakia	Present	Absent	Absent
Slovenia	Absent	Absent	Absent
Spain	Absent	Absent	Present
Sweden	Absent	Absent	Present
United Kingdom	Present	Absent	Absent

Next to those human-rights dedicated IPC meetings, and due to their cross-cutting nature (see *supra*), human rights issues had a tendency to be addressed in relation to other themes which were scheduled in IPC meetings, notably in relation to topics such as gender equality, criminal policy and immigration policy. For example, the EP committee on Women's Rights and Gender Equality (FEMM) regularly commemorates the annual International Women's Day by hosting inter-parliamentary committee meetings focusing on women's rights and non-discrimination.

3.4 Evaluation and Preliminary Findings

In many ways, the challenges and opportunities for IPC in the field of human rights resonate with those that have been identified in relation to IPC in general. However, particularities can be observed owing to the nature of human rights as both a foundational value and a cross-cutting theme in the EU.

The success of IPC in the field of human rights hinges on the extent to which current and urgent questions are addressed rather than broad, overarching topics. As one respondent forcefully quipped: 'MPs aren't interested in "Strategic Frameworks" and "Action Plans". The wording doesn't encourage us to attend these meetings. We want to talk about refugees in Africa. The rest is too abstract.' It perhaps comes as no surprise, therefore, that the highly visible topic of torture during the 2008 ICM hosted by the DROI subcommittee attracted the highest attendance ratio of national delegations of all dedicated human rights ICM in the period observed by this study (55%). Indeed, as pointed out by another respondent, 'torture was a salient issue for which it was relatively easy to mobilise parliamentarians from across Europe, because it had already been controversial for some time and could therefore also attract sufficient media attention.' While the 2011 meeting on the less tangible issue of monitoring human rights conditionality already evidenced a decreased interest by national parliamentarians (44%), the low point was reached with a participation rate of a mere 42.85% during the 2013 discussion about the implementation of the EU Strategic Framework and Action Plan on Human Rights and Democracy¹⁷⁴. Interestingly, a similar trend can be discerned with regard to the attendance rates of EP representatives, which seem to have dropped from 37 in 2011 to 33 in 2013¹⁷⁵. In other words, there appears to be a negative correlation between the generality of the topic and the appeal of the meeting.

Interestingly, the numbers of registered participants seem to indicate a higher interest by the new EU Member States: in 2008 and 2011 only five of the old EU-15 countries participated. In 2013 the number

¹⁷⁴ See *supra*, figure 6.

¹⁷⁵ It should be noted, however, that without available public information on the attendance rates of EP representatives in the 2007 and 2008 meetings, no solid conclusions can be drawn with regard to the trends in participation amongst EP delegates.

fell to 4. It is also noteworthy, that only three Member States (Bulgaria, Italy, Romania) registered participants for all the meetings, while five Member States never participated (Estonia, France, Luxembourg, the Netherlands, Slovenia). In fact, some respondents criticised the absence of some of the large Member States' parliaments during all or part of those meetings.

As indicated above, another enabling factor of IPC meetings is the extent to which they are likely to provide MPs and MEPs with first-hand information from other institutions and bodies about the EU's human rights policies. Very often, the role of the EU in promoting human rights is indeed not clear beyond the EU level. Therefore, it is acknowledged that IPC meetings are more appealing if they provide room for exchanges between parliamentarians and EU officials. In this regard, several respondents expressed interest in the presentations made by Morten Kjaerum, the Director of the FRA, and Stavros Lambrinidis, the Special Representative for Human Rights, during the 2013 DROI ICM. Inviting representatives of other institutions (especially the Commission) seems to be established practice in IPC, notably in ICMs organised by DROI, which since 2008 have always featured at least one high-level representative of the Commission and/or other institutions. DROI has also at times invited representatives of other international organisations to ICMs when the topic was suitable. For instance, in 2008, the UN Special Rapporteur on Torture and a member of the Council of Europe's Committee for the Prevention of Torture were invited to speak. Moreover, recognizing the need for an ever more inclusive dialogue on human rights, the EP Report on the Review of the EU Human Rights Strategy stated that it is 'essential to organise broad consultation, with local civil society organisations, representatives of national parliaments, human rights defenders and other stakeholders'¹⁷⁶. This echoes the above comments as to the centrality of civil society in scrutiny and input on human rights policies (see section 3.2). In this regard, the presence and active participation of representatives from Amnesty International, Human Rights Watch, and a national human rights institution (the Danish Institute for Human Rights) at the 25 September 2013 DROI ICM was a welcome precedent. The practice of exchanging information and views with other EU institutions seems to be well-established in IPC meetings dealing with human rights. However, in recognition of the broader context in which the EU's human rights action is taking place, the inclusion of a broad spectrum of representatives from civil society and other international organisations in IPC meetings should be pursued more systematically.

As has been noted above, the success of an IPC meeting depends to a large extent on the opportunity for MPs to make their voices heard. As an illustration, one respondent stated that 'it is important to be confronted with other opinions. When you have [certain countries] continuously going back to the Schengen issue every meeting, you understand how strongly they feel about this and how divided the opinions are at the European level'. This assessment was corroborated by several interventions during the 2013 DROI ICM, when a number of national parliamentarians highlighted human rights related issues that were particularly salient in their own domestic context, and urged the attending parliamentarians to put these topics on the agendas of their respective national assemblies. The exchange of information between parliamentarians may also empower them to effectively scrutinise the actions of their national governments, especially in sensitive policy areas, such as counter-terrorism and intelligence. In light of the growing international cooperation at the executive level in this field and given that the culture of secrecy and confidentiality on those issues may differ across the various EU Member States, some national parliaments may be *de facto* prevented from playing their role as 'human

¹⁷⁶ European Parliament, Committee on Foreign Affairs, Report on the review of the EU's human right strategy (2012/2062(INI)) 19.11.2002 (A7-0378/2012), although rather referring to horizontal IPC with third countries.

rights watchdogs' by receiving insufficient information from their own government¹⁷⁷. Addressing the topic at the EU level and sharing best practices through IPC, therefore, may well reduce the risk of human rights violations.

Corresponding to the general findings on the challenges and opportunities of IPC¹⁷⁸, the importance of creating a tangible output was also highlighted in the context of human rights related meetings. Participants of the 2013 DROI ICM mentioned that all human rights issues, as they were discussed on 25 September 2013, should be followed up on an on-going basis in order to contribute to greater coherence in EU human rights policies. So far, there are neither minutes nor Chair's conclusions available for any of the dedicated human rights ICM which have taken place since 2007, and only the 2007 and 2008 meetings resulted in the adoption of a joint declaration.

Finally, it has been suggested that IPC channels should render the exchanges of information and best practices mutually reinforcing. By way of example, IPC could be coordinated in the context of the Inter-Parliamentary Conference on CFSP/CSDP and the committee-based meetings initiated by DROI. The need for this holistic understanding was evidenced during the 2013 DROI ICM where migration streams caused by human rights violations were addressed, while the preceding CFSP/CSDP conference in March 2013 had already focused on the quest for a 'comprehensive approach' in EU external action – entailing cross-cutting EU instruments to address a wide range of human rights-related security challenges¹⁷⁹. Resonating with the suggestions of many respondents to break down large meetings into specialised workshops or to organise smaller side-events, the Inter-Parliamentary Conference on CSFP/CSDP provides a good opportunity to organise topical discussions on selected human rights impacts of the CFSP. However, large-scale IPC events are not the only occasions to streamline human rights debates. Events organised by other EU institutions, other international organisations, or civil society could be used as lynchpins for successful and high-profile events. An excellent example is the June 2008 DROI ICM on torture, which was organised on the International Day against Torture. This was unanimously presented by respondents as a best practice, attracted comparatively higher interest (see above FIGURE 8), and was an occasion for a political declaration against torture. International Human Rights Day can also be envisaged, just as FEMM organises an event on each International Women's Day. The now well-established EU-NGO forums are certainly an excellent occasion to familiarise MPs and MEPs with the specific topics they address, as well as high-level UN Conferences and NGO events.

In order to enhance inter-parliamentary cooperation on human rights, the focus should thus not only lie on strengthening current internal practices of both the standing and *ad hoc* IPC channels, but should also be placed on the interaction, cooperation and potential synergies between these fora.

Based on these findings, it appears possible to draw conclusions for the successful preparation of future human rights related IPC meetings. As a first step, the setting of the appropriate time frame for the preparation phase appears to be of paramount importance. Given the need to coordinate the busy agendas of a large number of heterogeneous invitees, preparation should ideally start well in advance of the meeting and be signalled to the relevant participants at an early stage in order to raise awareness and to permit the invitees to take the meeting into account for scheduling. A shorter preparation phase may be indicated for IPC meetings on unforeseen and urgent topics, and thus safeguard the flexibility of the *ad hoc* IPC events. As has been noted above, the scheduling of the meeting should take into

¹⁷⁷ Oikarinen, J., 'Parliamentary Oversight of Counter-Terrorism Policies', in Ana María Salinas de Frías, Katja L.H. Samuel, and Nigel D. White (eds.), *Counter-Terrorism: International Law and Practice*, Oxford University Press, Oxford, 2012, pp. 940-941.

¹⁷⁸ See *supra*, section 2.6.

¹⁷⁹ Keukeleire, S. and Raube, K., 'The Security-Development Nexus and Securitisation in the EU's policies towards developing countries', *Cambridge Review of International Affairs* No 26, 2013, p. 556.

account the calendars of the national chambers, including elections, recesses or holidays. If the topic of the meeting is of legislative relevance, the meeting should be scheduled at a time in the legislative process, where its outcome can deliver valuable input for the pending legislation. The timing of the meeting should of course also take into consideration the schedule of other IPC meetings and, if possible, try to create synergy effects. Secondly, invitations should be sent to the chairpersons of the corresponding national committees, which could ideally be easily recognised based on a regularly updated list (see above), to relevant MEPs, representatives of other EU or non-EU institutions, to members of NGOs and stakeholders of civil society. Information on the meeting should in addition be published in the calendar section of the IPEX website¹⁸⁰. Thirdly, the agenda of the meeting should ideally be set to discuss a human rights related topic that is timely, targeted and politically relevant. This might entail screening the agendas of national parliaments, IPEX, or other fora of information exchange for “hot” topics, or inviting input from parliamentarians, civil society and academic experts. In addition, the preparation of the meeting should be conducted in close cooperation with the Directorate for Relations with National Parliaments to benefit from its considerable experience. Moreover, the host of the meeting should proactively engage with the standing delegations of National Parliaments in Brussels, so as to raise awareness of human rights issues, enhance the visibility of human rights IPC events, and generally secure a high level of attendance early on. During the preparation phase, close contact with the invited participants should be maintained, for example through sending updates and reminders, background information, and issue papers. This ensures continued awareness and may increase the interest in the meeting. In terms of logistics, the hosts of an IPC meeting might consider whether they want to provide a live stream of the event, launch a dedicated website, or book breakout rooms for smaller, informal discussions next to or before and after the plenary event. Considerable attention should also be paid to the potential deliverable of the event. It should be evaluated whether the meeting is suitable to produce an outcome document (for example providing input on pending legislation or in the form of a declaration on a topical issue) and whether the attendance rate will be high enough to justify such a document. If an outcome document appears to be unsuitable, alternative deliverables should be considered: for example a detailed summary of the meeting or a roadmap for further cooperation.

The above findings also allow drawing conclusions for the way forward after IPC meetings. Sufficient follow-up with the attendants has proven to be of paramount importance. It may take the form of sending detailed minutes, conclusions of the chair, or – if applicable – the outcome document of the meeting. Attendants should be kept informed of further progress on the discussed topic and of further opportunities for exchange. It has already been pointed out that all information should be uploaded on IPEX for easy and centralised access. The hosts of the meeting should conduct a detailed evaluation of the event and keep note of good and bad practices in order to create a knowledge base for future use. The evaluation phase might also include gathering feedback from participants to get an outside perspective.

Lastly, it is possible to draw conclusions on strengthening IPC in the time periods between meetings. In this regard, it appears particularly important for all participants of IPC to know who their partners are in the various chambers across Europe. In order to create a network of specialists, allow for easy contact and exchange: to alleviate the feeling to be 'all alone in the field', it appears advisable to regularly gather reliable and consistent information about the competent committees and their chairs in the respective national chambers, and to disseminate this data¹⁸¹.

¹⁸⁰ [http://www.ipex.eu/IPEXL-WEB/calendar.do?autoLoad=true&sort\[0\]=SD|D](http://www.ipex.eu/IPEXL-WEB/calendar.do?autoLoad=true&sort[0]=SD|D), accessed 15.12.2013.

¹⁸¹ This would allow for the elimination of discrepancies noted above between different mapping sources. See above fn. 135.

Furthermore, IPC-related information should be made easily available, particularly on IPEX, and if necessary also mirrored on the websites of EP or national committees, the website of the Directorate for the Relations with National Parliaments or the like, while always including an external link to IPEX. This goes hand in hand with increasing the visibility of IPEX as the unique hub for IPC-related information. Bringing IPEX to the centre of attention of all IPC participants may entail sending relevant information to national parliaments, offering video tutorials on its functioning and use, routinely asking for input to the news section on the IPEX website, or sending out a newsletter. IPEX could then also serve as a forum for inter-parliamentary discussion of current political topics in-between IPC events. Password-protected forum space could be used by parliamentarians to highlight issues which are high on their national agendas, to request information about best practices or EU-related issues, to identify parliamentarians who are engaged with similar topics, and to form small 'task forces'. This forum might then again allow the hosts of upcoming IPC events to screen for 'hot' topics and draft the agenda accordingly. Finally, it might be particularly helpful to publish a brochure or other form of informational document on IPC in order to provide guidance for parliamentarians on its nature, workings, channels and benefits. The inclusion of practical examples might illustrate past successes of IPC and highlight its relevance for human rights. The brochure may thereby contribute to raising awareness for IPC, making it more accessible. For newly elected MPs and MEPs, such a brochure could effectively and rapidly acquaint them with IPC and its potential.

4. RECOMMENDATIONS

The Lisbon Treaty has created fertile ground for IPC in the realm of human rights. On the one hand, it has significantly enhanced the role of the EP and national parliaments. On the other hand, human rights were elevated to a foundational value of the EU, underpinning all internal and external policies and thereby raising expectations as to the EU's capacity to forge a more coherent and effective human rights policy.

Drawing on extensive research on the current architecture of IPC and the place of human rights in IPC practices, this study formulates the following recommendations with a view to enhancing the cooperation between the EP and EU National Parliaments in the area of the EU's human rights policy.

4.1 IPC in General

4.1.1 Institutional and Organisational Framework

Recommendation 1: Mitigate the risk for IPC fatigue

There is a proliferation in the number and size of IPC meetings, both as far as standing bodies and *ad hoc* events are concerned. This may lead to IPC fatigue of participants and organising institutions due to the burden IPC meetings entail in terms of time and cost. IPC fatigue may result in decreasing attendance rates, lack of preparation and debriefing by participating parliaments, and Presidency parliaments declining to organise large-scale events. Recommendations 2 through 4 provide more specific options for mitigating this risk.

Recommendation 2: Streamline the timing, scope and agendas of standing IPC bodies' meetings

Currently, four standing IPC bodies meet annually or biannually, often in the Member State holding the EU Council Presidency. For three of them (COSAC, IPC Conference on CFSP/CSDP, IPC Conference on EFG), the sizes of delegations are comparable. These convergences potentially create opportunities for synergies if the timing, scope and agendas of all events were streamlined to the greatest extent possible.

Recommendation 3: Reassess the organisation of *ad hoc* IPC meetings and look for synergies with standing bodies

There is a plethora of *ad hoc* IPC meetings. While adding value to IPC by addressing more topical subjects, *ad hoc* meetings further contribute to the proliferation of IPC events and its associated constraints. Synchronizing timing, scope and agendas of *ad hoc* events with those of standing IPC bodies may also create opportunities for exchanging best practices, building institutional memory, and ensuring cross-fertilization of debates. Of course, *ad hoc* IPC meetings could still be organised outside of the realm of standing IPC bodies when warranted by current events.

Recommendation 4: Consider organising recurring IPC weeks

Drawing on the above recommendations and on the model of the European Parliamentary Week, which was first held in January 2013, a number of IPC events could be grouped together during an 'IPC Week' organised outside of regular sessions of parliaments, so as to ensure availability of all participants. This would ensure a high profile for IPC events, reduce the costs, and increase the benefits for parliamentarians to attend a wide range of IPC events while offering ample opportunities for networking and informal types of IPC.

Recommendation 5: Ensure coherence and consistency among members of national parliament delegations

In light of the persisting fragmentation in the composition of national parliament delegations to the various IPC bodies, which exacerbates the lack of a centralised mechanism for the preparation and follow-up of IPC meetings, national parliaments should ensure a certain degree of consistency in the composition of their delegations. Doing so might also alleviate IPC fatigue, as it might increase a sense of personal responsibility in IPC participants and thereby contribute to the development of an institutional memory in IPC.

Recommendation 6: Consolidate all IPC-related information under the cupola of IPEX

For the moment, information about IPC and its participants (delegation compositions, agendas, minutes, reports) is dispersed across a number of websites, databases and intranet resources (including the COSAC website, EP Directorate website and IPU website). In some cases, it is not even publicly available. In line with its objective to centralise information about IPC, IPEX should further develop to become the primary portal for all IPC-related information. This could include a more detailed and up-to-date database about the parliamentary system in each Member State, the specific composition and competences of parliamentary committees and their designated contact persons.

4.1.2 IPC Topics

Recommendation 7: Favour targeted and timely topics

Parliamentarians have a strong preference for targeted and topical discussions rather than broad and overarching topics. Organisers of IPC events should strive to develop agendas addressing concrete issues coinciding with current events or the relevant stages of legislative proposals. Agenda topics should also be of interest to a critical number of participants.

Recommendation 8: Break down large-scale events into specialised workshops and side-events

An excessive use of the plenary format in large-scale IPC event leads to overly broad discussion with little room for constructive debate or operative results. The suggestion is made to devote part of the meetings of standing bodies to specialised workshops allowing for more meaningful IPC benefits

including information exchange amongst specialists, concrete input in policy-making, and networking among like-minded parliamentarians. See also Recommendation 4.

Recommendation 9: Ensure visible outcome and effective follow-up after meetings

The findings emphasised, especially in *ad hoc* meetings, the lack of a consistent practice of producing concrete outcomes (e.g. declarations or contributions) or ensuring basic institutional memory (e.g. minutes, follow-up action points). Ensuring tangible outputs may enhance the visibility of IPC meetings, alleviate IPC fatigue, and thus provide political incentives and rewards to participants. See also Recommendation 6.

4.2 Human Rights in IPC

Recommendation 10: Ensure coherence and consistency through collaboration of relevant EP and national parliaments' committees

The EU can only become a credible human rights actor if it ensures coherence both among its own policies and vis-à-vis the policies of its Member States. Currently, the EP Committee structure with its clear distinction between fundamental rights and human rights might hinder human rights to run as a silver thread through all EU action. Regardless of its potential upgrade to a full-fledged Committee, DROI should be mindful of ensuring internal coherence by seeking synergies and intensifying its collaboration with other relevant Committees, e.g. AFET, SEDE and LIBE. To that effect, it should continue to organise joint IPC meetings with other Committees on cross-cutting human rights topics, for example through the channel of the 'Task Force on EU Human Rights Policy'. Moreover, regular collaboration should also be established with the relevant human rights committees of national parliaments to ensure coherence between EU and Member States' policies.

Recommendation 11: Integrate IPC deliberations in EP considerations of human rights issues

The EP, in its discussions, reports and resolutions on the EU Annual Reports on 'Human Rights and Democracy in the World', as well as in its reports on the 'Strategic Framework and Action Plan on Human Rights and Democracy', and other debates and resolutions addressing human rights issues, should take into account the deliberations or conclusions of all forms of human rights-related IPC meetings. This would enhance the visibility and relevance of IPC as a policy-making and scrutiny tool for human rights.

Recommendation 12: Create synergies between standing and *ad hoc* IPC channels geared towards the promotion of human rights

Drawing on the established role of CFSP/CSDP conferences in addressing human rights-related issues, it is recommended to adopt reports and/or resolutions on specific human rights deliberations, thereby leaving a clear paper trail and emanating a strong political signal for follow-up action. If these reports and/or resolutions were co-authored by both MPs and MEPs, they could be disseminated and discussed in subsequent IPC forums, and thus they would not only bring together the views of the EP and the national parliaments, but also strengthen ownership amongst parliamentarians who are involved in IPC. In line with the general need to foster synergies between *ad hoc* and standing IPC bodies, this would enable the exchange of best practices, the creation of an institutional memory, and the existence of cross-fertilization between human rights-related debates. See also Recommendation 3.

Recommendation 13: Discuss timely, targeted and politically relevant human rights issues

Human rights as a cross-cutting topic have a tendency to lead to very broad discussions. Research has indicated that the salience of IPC meetings in human rights tends to increase when the topic is timely,

targeted and politically relevant. While increasing the interest of parliamentarians for IPC, this also empowers them to scrutinise the EU and Member States' governments on potentially sensitive topics, especially when that opportunity is not available to them in a purely domestic setting.

Recommendation 14: Mobilise parliamentarians to acknowledge their role as human rights actors

MEPs and MPs, in their capacity as democratically elected representatives of EU citizens, are in a privileged position as actors in the promotion of human rights. MEPs and MPs should be mobilised to seize the opportunity of IPC post-Lisbon and to acknowledge it as an integral part of their parliamentary work, especially in the field of human rights. Parliamentarians should be sensitised to the fact that IPC has the potential to empower them to provide input on EU legislations, to better perform their scrutiny function, and to hold the executive accountable on both the EU and national levels, with a view to promote and protect human rights. In this regard, IPC in its various forms (from formal meetings to informal exchange of information) should be seen as an important tool for both MPs and MEPs, to contribute to an effective implementation of the EU's human rights strategy. Co-chairing IPC meetings, whereby the co-chairmanship may be given to the national parliament of the Member State holding the Council Presidency, would send out a strong signal of institutionalised cooperation and shared responsibility in this regard.

Recommendation 15: Ensure expertise of delegations in all human rights aspects of the topic considered

IPC meetings should aim to bring together MPs and MEPs who are well-versed in a broad range of human rights-related issues and who can contribute their expertise to the human rights aspects of the topic considered. While parliaments with specialised human rights committees can naturally delegate parliamentarians who are members in such committees to attend human rights-related IPC meetings, parliaments should also delegate those MPs who are working on human rights-related issues in other committees (for instance, foreign affairs, defence matters, migration and asylum policies, etc.).

Recommendation 16: Consistently invite expert high-level speakers from other EU institutions, other international organisations, civil society and academia

Human rights is a highly diverse field in which a large number of actors are involved. IPC should seek their specific insights for more informed scrutiny and input. In this light, the consistent and systematic inclusion of a broad spectrum of human rights actors in IPC meetings should be ensured. Moreover, an agenda featuring high-level speakers may be more appealing for potential participants.

Recommendation 17: Make IPC meetings coincide with other high-level events

IPC meetings should, whenever possible and suitable, be organised so as to coincide with other widely publicised human rights initiatives and events. This would enhance the visibility of IPC and therefore the appeal of the meeting for participants. This would additionally provide occasions to situate the EU human rights agenda in the context of the broader field of human rights.

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